ELECTION OFFICER for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

In re:	:	**Election Office Case No.**
	:	
CAREY SLATE	:	**PR-035-EOH (Post-47-EOH)**

MICHAEL G. CHERKASKY
Election Officer

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ELECTION OFFICER for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

In re:	:	Election Office Case No.
	:	
CAREY SLATE	:	PR-035-EOH (Post-47-EOH)

4. Preliminary Statement

On May 16, 1997, the Carey Slate filed a pre-election protest (the "Carey Slate Protest") pursuant to Article XIV, Section 2(b) of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election ("Rules").* This protest alleges that James P. Hoffa, a candidate for general president in the initial and rerun elections, and members of his slate (the "Hoffa Slate" or the "Hoffa Slate Campaigns") filed Campaign Contribution and Expenditure Reports ("CCERs") in the initial election that did not truthfully or completely report contributions or expenditures. The protest alleges that the items not truthfully or completely reported include prohibited contributions from labor organizations and employers. This is the Election Officer's ruling on the Carey Slate Protest and other allegations concerning the Hoffa Slate Campaigns and the initial 1996 IBT International officer election.

5. Procedural History

On August 21, 1997, Election Officer Barbara Zack Quindel denied the Carey Slate Protest. James P. Hoffa Slate, Post-45-EOH, et seq. The Election Officer concluded that the allegations, even if true, did not affect the outcome of the election balloting (because the Carey Slate candidates won the vote for all positions except Central Region Vice-Presidents) and that the protest, filed more than four months after the announcement of the election results, was untimely. Id.

The Carey Slate appealed the Election Officer's decision to the Election Appeals Master. On November 17, 1997, the Election Appeals Master reversed the Election Officer and directed the Election Officer to reclassify the protest as a pre-election protest that, while questioning conduct in the initial election, raises allegations relevant to the rerun election. The Election Appeals Master concluded as follows:

> The Hoffa Slate notes that under the Election Rules "it shall be the burden of the complainant to present evidence that a violation has occurred." Article XIV, Section 1. The protester, they assert, has not met his burden. I find that the protest on its face, as amplified by the Carey Slate's May 30, 1997 submission, meets that burden by providing sufficient factual information to warrant investigation by the Election Officer. . . .

> In today's Cheatem decision [disqualifying Ron Carey as a candidate in the Rerun Election], I have determined that *Rules* violations in the nullified election broadly implicate the integrity, credibility and fairness of the rerun election, and, if of sufficient seriousness, could warrant disqualification of a candidate. The confidence of the rank and file in the even-handedness of the federal overseer in enforcement of the Consent Decree requires that the Carey Slate protest be thoroughly and convincingly investigated. . . .

In re Carey Slate Protest, 97 - Elec. - App. 322 at 6-7 (KC) (Nov. 17, 1997). There were no appeals from the Election Appeals Master's ruling. The Election Officer then redocketed the protest as pre-election protest PR-035 and opened the required investigation.

6. Allegations Reviewed by the Election Officer

The protester supplemented the original protest by letter dated May 30, 1997. Six allegations were set forth. The essence of the allegations is that the CCERs failed to report contributions or expenditures that should reasonably have appeared, based on the Hoffa Slate Campaigns' known activities. The six separate allegations are as follows:

- Alleged Improper Reporting of Contributions. The protester contends that a reported $1.8 million in aggregate contributions to all Hoffa Slate Campaigns from individual donations of $100 or less "is . . . contrary to reason" and requires investigation to determine whether this "unlikely total" includes funds from prohibited sources. The Hoffa Slate Campaigns reported the questioned contributions in the aggregate. Without offering evidence of any specific impropriety, the protester contends that the Hoffa Slate's use of the unitemized category concealed unlawful contributions to the campaigns.

  The protester also contends that Hoffa Campaign CCERs "inexplicably" do not report contributions "from a number of Hoffa's strongest supporters." The protester cites the contrast between these individuals' activities in support of Mr. Hoffa and the lack of reported donations as facts that "strongly suggest that the Hoffa Campaign has systematically misreported its contributions."

- Alleged Improper Reporting of Payments to Campaign Employees and Vendors. The protester cites the absence of reported payments on the Hoffa Slate CCERs, or the reporting of small payments, to the following "campaign operatives:" Richard Leebove and his company, RL Communications, Inc., George Geller, Dane Passo and Kevin Currie. This reporting is allegedly inconsistent with the work these individuals did for the Hoffa Campaign. The protester further contends that Mr. Leebove may have been compensated for campaign work by other Teamster affiliates, by pro-Hoffa employers, or by other improper sources. In a footnote, the protester alleges, without citing any facts, that the CCERs do not accurately report the expenditures or contributions by the campaign's accountant,

Gary Kushner, and Mr. Hoffa's attorney, Bradley T. Raymond and/or his law firm.

- Alleged Improper Reporting of Phone Bank Costs. The protester contends that the Hoffa Campaign had extensive phone bank operations and that the full expected costs of these operations do not appear on the CCERs. Thus, the protester asserts that the Hoffa Slate Campaigns either unlawfully accepted donated or discounted office space, telephones, food, transportation, and other items from employer-vendors or IBT affiliates, or that it unlawfully paid for its substantial phone bank operations with unreported contributions from unknown sources.

- Alleged Improper Reporting of Travel Expenses. The protester contends that Mr. Hoffa engaged in extensive travel in the final four months of the campaign (often accompanied by Mr. Leebove or other members of his campaign staff), but that the full cost of this travel is not reported on his CCERs. The protester additionally opines, based upon the LM-2 reports that IBT Joint Council 43 files with the U.S. Department of Labor, that the joint council paid Mr. Hoffa approximately 60 percent of his salary and allowances as a joint council employee in 1996, even though his travel at that time was totally campaign-related.

- Alleged Improper Reporting of Expenditures for Campaign Memorabilia and Paraphernalia. The Hoffa Campaign reported over one million dollars in expenditures for paraphernalia. More than $600,000 of this was paid to four major vendors: JD Custom Printing, S&K Specialty, Sanatex, and Barker Specialty. The protester contends that these vendors do substantial business with IBT affiliates and that they should be examined to see if they either made unlawful contributions to Mr. Hoffa by inflating invoices and then rebating unreported "slush" funds to the Hoffa Campaign, or by entering into special arrangements with the Hoffa Campaign in return for promises of Teamster work in the future.

- Alleged Diversion of Local Union 337 Funds to the Hoffa Campaign. The protester, relying on a June 25, 1997, Associated Press report of an ongoing federal grand jury investigation, alleged that Local Union 337 illegally used union funds and possibly diverted funds to the Hoffa Campaign. The protester additionally contended that such funds could have been illegally diverted to Messrs. Leebove and Geller.

During 1997, prior to the Election Appeals Master's decision, the protester submitted additional allegations which were included in the investigation. These allegations are:

- Alleged Improper Solicitation of Contributions from Unions. The protester sent a letter to the Election Officer attaching an affidavit from Robert Wages, president of the Oil, Chemical, and Atomic Workers Union, which stated that in February 1995, he was solicited for a contribution to the Hoffa Campaign. The protester contended that any contribution would have been improper because Mr. Wages is an employer. In later correspondence with the Election Office, the protester alleged that a similar solicitation was directed to Mac Fleming, president of the Brotherhood of Maintenance of Way Employees; that John Matassa, a local union leader in the Laborer's International Union of North America with reputed mob

ties claimed that he had raised money for the Hoffa Campaign; and that Tom Short, a union official in the International Alliance of Theatrical and Stage Employees sent a memo to business agents and possibly to employers urging them to attend a party run by Michael Riley, president of IBT Local Union 986, to raise contributions for the Hoffa Campaign.

- Alleged Improper Contributions from American Income Life Insurance Company ("AILI") to the Hoffa Campaign. The protester alleged that the ***Rules*** may have been violated in a scheme involving American Income Life Insurance Company ("AILI"). The specific allegations were that Mr. Hoffa or the Hoffa Campaign contacted AILI President Bernard Rappaport and asked him to contribute to the Hoffa Campaign in return for support that AILI Vice-President Jules Pagano had demonstrated for the Carey Campaign. According to the allegation, AILI representatives donated money to the Hoffa Campaign and, in return, received lists of union members to use in its direct mail solicitations. An additional allegation was later received that Mr. Pagano was solicited to give money to the Hoffa Campaign.

Finally, the Election Officer included in this investigation other allegations of misconduct involving the Hoffa Slate Campaigns received while the Carey Slate Protest was pending. These are:

- Alleged Improper Contribution by UPS. United Parcel Service ("UPS") retained former IBT legislative director Dave Sweeney as a lobbyist, and allegedly paid Mr. Sweeney to help raise money and/or solicit votes in support of Mr. Hoffa.

- Purchase of Local Union Paraphernalia For an Allegedly Inflated Price. Local Union 710 spent $20,000 in March 1997 to purchase pass cases from Sanatex, Inc. The local union allegedly paid an inflated price for these pass cases, and the excess payment was allegedly used for the benefit of the Hoffa Campaign.

- Alleged Improper Contributions by Printers. Kelly Press and Delancey Press, both of which are union printing firms based in the Washington, D.C. metropolitan area, were alleged to have given donations to the Hoffa Campaign.

- Alleged Misuse of Local Union Charitable Fund to Send Money to the Hoffa Campaign. Local Union 507 in Cleveland, Ohio, has a Charity, Education, and Recreation Fund (the "507 Fund"). The allegation is that during 1996, the Fund gave $37,000 to charity, $200 to education and $831,000 to recreation, but that the $831,000 actually paid for rallies and paraphernalia to support the Hoffa Campaign.

- Alleged Fund Transfer by Local Union 710. Local Union 710 pension fund monies were allegedly funneled into the Hoffa Campaign through the commissions paid on the sale of bonds owned by the pension fund. The allegedly diverted commissions were paid to Christopher Roach, President of East-West Institutional Services, Inc.

- Donation of Paraphernalia from the Movie *Hoffa*. The Election Officer received an allegation that the Hoffa Campaign may have received and sold paraphernalia and props used in the movie *Hoffa*.

7. Overview of the Investigation

The Election Appeals Master's November 1997 remand of the Carey Slate Protest required the Election Office to plan and conduct an investigation of alleged financial misconduct in which virtually all of the activity in question occurred more than one year earlier. Much of the questioned conduct involved undocumented cash transactions. The investigation sought to find whether any evidence exists to substantiate the allegation that the Hoffa Slate members or their agents had solicited, received, or made contributions from prohibited sources (e.g., employers, the IBT, any IBT subordinate entities or any other labor organizations). The Hoffa Slate Campaigns had filed with the Election Office the required CCERs reporting on the several campaigns' sources of funds and detailed their expenditures for the 1996 IBT International officer election. Using systematic audits and taking testimony under oath or by interview, the Election Officer looked behind the CCERs and examined raw financial records for evidence concerning the Carey Slate Protest allegation that a subterranean source of unidentified, prohibited funds had fed the Hoffa Slate Campaigns.

The particular steps followed in the investigation will be detailed separately with each allegation. As a general matter, the Election Officer obtained information: 1) by auditing Hoffa Slate Campaign and IBT entities; 2) by subpoenaing information from the Hoffa Slate's major vendors; and 3) by taking sworn testimony and interviewing hundreds of witnesses. Those questioned included International officer candidates, IBT members and third parties with information relating to the allegations. The Federal Bureau of Investigation ("FBI") assisted the investigation by providing the Election Officer with information from interviews it conducted. This investigation required contacting witnesses throughout the United States. The Election Officer recognizes that the FBI's ability to gather and provide information from witness interviews conducted in different, scattered locales contributed significantly to the expeditious completion of this investigation.

Throughout the investigation, the Election Officer received the cooperation of Mr. Hoffa, members of his slate, and their respective staffs. Third-party, non-IBT witnesses (such as banks, credit unions, campaign vendors, and individuals) also cooperated in providing records and answering questions promptly.

8. Overview of the Hoffa Slate's Organization

The Carey Slate Protest investigation required the Election Officer to learn how the Hoffa Slate organized and operated the campaign, focusing particularly on how the several campaigns raised money and how they accounted for it. This section summarizes the basic organization of the campaign, and the candidates and campaign personnel that are the subject of the investigation.

1. Initial Phase: Organizing the Slate

Mr. Hoffa began planning his campaign for IBT General President in 1994. He discussed the possibility of running against Mr. Carey with a group of advisors that included Richard Leebove, a Detroit-based public relations consultant who eventually became Mr. Hoffa's chief press spokesman, and IBT members Robert Rayes, Carlo Scalf, and Larry Brennan[1] (all member/officers of Local Union 337 in Detroit), and Les Singer of Local Union 20 in Toledo. Meetings among IBT leaders interested in organizing a political opposition to Mr. Carey occurred periodically in 1994 and 1995, often in conjunction with Joint Grievance Board meetings in Chicago. William T. Hogan, formerly of Local Union 714 in Chicago and the Hoffa Slate candidate for General Secretary-Treasurer, recalls a meeting that occurred in or about early 1995 in Chicago where a group discussed forming and financing a slate. Mr. Hogan, Mr. Hoffa, Walter Lytle (an officer in Local Union 414 in Indianapolis who ran for International Vice-President on the Hoffa Slate and was elected), Billy Moore (of Local Union 696) and Frank Wsol (an officer of Local Union 710 in Chicago who initially ran for International Vice-President on the Hoffa Slate) were among the Chicago meeting participants.

At a subsequent 1995 meeting of interested IBT leaders in Chicago, an agreement was reached that Mr. Hoffa would be the candidate to lead the political opposition to Mr. Carey. The group discussed financing the slate campaign. It was determined that each candidate would pledge to contribute $75,000 to the national campaign to join the slate. Each of the candidates on the slate conducted their own fundraising efforts to meet the goal.

2. Mr. Hoffa's Campaign Staff and Consultants

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[1] Mr. Brennan later was nominated on a partial slate. He withdrew as a candidate before the election. Mr. Singer ran for International Vice-President on the Hoffa Slate.

During 1994 and early 1995, Mr. Hoffa ran his own campaign out of his home in Detroit. He had no staff. Mr. Hoffa developed a campaign logo and began to order paraphernalia. His son, David Hoffa, assisted him by selling campaign paraphernalia to raise money. Mr. Leebove also did some work for Mr. Hoffa during this early campaign period.

After mid-1995, the Hoffa Campaign stepped up its activities. Mr. Hoffa opened a "Hoffa Support Team" account to collect receipts from paraphernalia sales. In June 1995, at the urging of Mr. Leebove and others, Mr. Hoffa hired Tom Pazzi to serve as campaign manager. David Lyle was hired in December 1995 to be Mr. Hoffa's field director.

Mr. Pazzi states that when he arrived in Detroit in June 1995, he was "the staff." Mr. Pazzi states that he reported directly to Mr. Hoffa and no one else. Mr. Pazzi moved into the office space occupied by Mr. Leebove's company, RL Communications, Inc. ("RL"). The Hoffa Campaign made an arrangement that resulted in their paying rent directly to the landlord. Mr. Pazzi opened a bank account for "Hoffa '96 National" to deposit donations to Mr. Hoffa's campaign. Mr. Pazzi also began producing periodic press releases called "Hoffagrams." Hoffagrams were variously written by Mr. Pazzi, Mr. Lyle or Mr. Leebove. Mr. Leebove reviewed all of the Hoffagrams prior to their release and Mr. Leebove's employee, Philip Turner, did the desktop publishing of the Hoffagrams.

Mr. Hoffa officially declared his candidacy for IBT General President on Labor Day, 1995. The level of active campaigning increased substantially after that. By this time, Mr. Pazzi had overall responsibility for the campaign. He ran slate meetings, coordinated campaign activities between Mr. Hoffa and slate members, and advised slate members on fundraising. In the fall of 1995, Mr. Hoffa hired Rob Schroth & Associates, a firm that had previously worked with Mr. Pazzi, to conduct polling for the campaign. Schroth's major work occurred around early 1996, when a benchmark "issues research" poll was conducted. Follow-up polls were conducted in April and October 1996.

Although Mr. Hoffa relied upon his small campaign staff, he continued to have daily, hands-on involvement in the details of his campaign operations. Among other things, Mr. Hoffa took personal responsibility for providing his campaign's accountants with the information used to complete the Hoffa Support Team's CCERs for the Election Office. The accountants would take information and compile it into the reporting format, and Mr. Hoffa would

personally review and edit the draft reports, and sign the final version. Although Mr. Pazzi apparently provided information to the accountants for the Hoffa '96 CCER, Mr. Hoffa signed and took responsibility for the final CCER filed with the Election Office.

Mr. Hoffa used Mr. Leebove and Mr. Pazzi to handle media relations. Starting in mid-1995 and continuing through the balance of the campaign, Mr. Leebove functioned, and was recognized publicly, as the campaign's principal press spokesman. When the Hoffa Slate held organizational meetings in Chicago in 1996, Mr. Leebove made short presentations to the group on the campaign's media "message." Mr. Leebove and his employee, Mr. Turner, went to the 1996 IBT Convention and did substantial work for Mr. Hoffa. They produced a Hoffa Campaign daily newsletter to delegates and assisted in staging rallies and media events.

3. Relations Between Hoffa Headquarters and the Slate Member Campaigns

While Mr. Hoffa and his staff ran the national campaign, the slate candidates ran their own campaigns with very little input from the national campaign. Having created a slate of candidates committed to running together, the principal operational tie was financial. Hoffa headquarters pressed the slate members to meet their $75,000 goal and to contribute that sum to the national campaign. While Mr. Pazzi was available for advice, slate members were largely left to run their own finances.

The principle of independence was demonstrated in the Chicago area, where Mr. Hogan, the General Secretary-Treasurer candidate, headed his own Hoffa/Hogan campaign. Mr. Hogan states that he told Mr. Hoffa and Mr. Pazzi that he would "handle Chicago," and the facts bear out Mr. Hogan's promise. Mr. Hogan opened the Hoffa/Hogan campaign office in 1995 in Berwyn, Illinois. Dane Passo, a member of Local Union 705 in Chicago, ran that campaign office on a day-to-day basis. Mr. Hogan, along with Mr. Wsol, ran an active campaign in the Chicago area. They scheduled and held fundraising events that attracted large numbers of supporters and sold a huge quantity of campaign paraphernalia without support or guidance from the Hoffa Campaign headquarters. While maintaining its independence and raising hundreds of thousands of dollars, the Hoffa/Hogan campaign contributed $50,000 to the national campaign.

Similar campaigns were conducted by Mr. Singer in Ohio, Phil Young in Kansas City, and Jim Santangelo in Southern California. Although none of these campaigns raised as much money in total as Mr. Hogan's effort, each one

contributed substantially to the national campaign. Mr. Young's campaign sent approximately $80,000; Mr. Singer's campaign sent approximately $84,000; and Mr. Santangelo's campaign sent approximately $58,300.

Just before the mailing of ballots, Hoffa Campaign headquarters organized telephone bank operations in several localities around the country. The main phone banks operated in the home cities of key slate members. The Hoffa Campaign directly funded a phone bank operation in Detroit and one in Philadelphia. The rest of the phone banking operations were funded by the individual slate campaigns.

The national campaign headquarters ran with a small core of staff and consultants. Significant decisions about the campaign and its message were made by Mr. Hoffa in consultation with Mr. Leebove and Mr. Pazzi. Other consultants, such as Rob Schroth, had specific tasks that supported the campaign and supplied information used by the campaign's policy makers. The reins of power, however, were held at the top by Mr. Hoffa, Mr. Leebove, and Mr. Pazzi. Official communication with the membership occurred mainly through fundraising events organized around candidate appearances and paraphernalia sales, with slate member campaigns handling both types of activity in their respective localities.

According to the Hoffa Campaign, this deliberately decentralized structure aimed to build grass roots support throughout the IBT. The reported phenomenon at the core of the Carey Slate Protest – the reported funding of the Hoffa Campaign by a large number of individual contributions of $100 or less -- purportedly reflects the Hoffa Slate's grass roots political support. Hoffa Campaign headquarters, however, lacked the records and information about contributions to the separate slate campaigns that would back up this assertion. While Mr. Hoffa had records of the fundraising conducted by the two entities he controlled directly (Hoffa '96 and the Hoffa Support Team), the slate campaigns had custody of their records concerning funds raised in the field. Each of the separate slate campaigns had its own independent obligation to record and report the contributions received and the expenditures made to the Election Officer. Except as reported on the slate member CCERs, Hoffa headquarters would not necessarily know the source of money raised by the slate member campaigns, or the fundraising methods used.

For this reason, the Carey Slate Protest required the Election Officer to assemble facts about the Hoffa Slate Campaigns from the different localities where each slate member operated. A comprehensive view of the Hoffa Campaign, and its finances, emerges by assembling these separate pieces.

9. Findings of the Election Officer

Each of the allegations investigated by the Election Officer will be analyzed separately. The analysis begins with the broadest allegation in the Carey Slate Protest: that the reported total of $1.8 million in contributions of $100 or less "is contrary to reason" and conceals prohibited union- or employer-funding sources.

1. Small Contributions to the Hoffa Slate Campaigns Came From Lawful Sources

The Carey Slate Protest cites the aggregate of $1.8 million, in not-itemized contributions of $100 or less, reported on the Hoffa Slate CCERs as facially suspicious.[2] Carey Slate Protest, Letter of May 30, 1997 at 3. The *Rules* in effect at that time did not require candidates to itemize monetary contributions of $100 or less.[3] Therefore, neither the lack of itemization nor the absence of detailed source information for those contributions violates the *Rules*. The absence of an explicit record-keeping requirement did not, however, diminish any candidate's obligation to accept only lawful contributions. The Election Appeals Master directed an investigation of the Hoffa Slate Campaign's substantive compliance without regard to the existence of campaign records.

Investigation of this allegation raised three questions:

- What was the total amount of unitemized contributions reported collectively by all members of the Hoffa Slate?
- Did each Hoffa Slate member properly report the contributions aggregated in the unitemized category?
- Did Hoffa Slate members receive the unitemized contributions from sources eligible to contribute under the *Rules*?

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[2] The protest also specifically questions the "inexplicabl[e] fail[ure] to report contributions from a number of Hoffa's strongest supporters" such as Larry Brennan, president of Local 337, and Mike Bane, president of Local 614.

[3] The rules for the rerun require the reporting of all contributions. See *First Supplement to the 1996 IBT International Officer Rerun Election Plan*, March 30, 1998, Section V.B.1.

The lack of detailed records of contribution sources meant that the Election Officer could not validate definitively the legality of all, or even a large portion, of these unitemized contributions.[4] Accordingly, this investigation was conducted much like an audit of a cash business. First, the investigation examined available documents and took testimony to identify improper contributions, if any. Second, the investigation sought to grade the proper contributions from certain to likely, based on the auditable record, interviews, and the cost of goods sold, i.e., the documented expenditures on campaign paraphernalia and fundraisers.[5]

In order to best answer the questions raised, the Election Officer obtained information in four different categories:

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[4] The accountant used by Mr. Hoffa to prepare the CCERs testified that he knew of no method used by Mr. Hoffa to keep track of all contributions regardless of amount. The campaign had tried to track all donations, but detailed information was not captured because the *Rules* did not require it. "[O]nce they weren't reported we lost control, there was no way for us to keep track at that point."

[5] Under these facts, the Election Officer could find evidence that would support a definitive answer of "no" to the questions that ask whether an identifiable contribution is from a lawful source. A definitive answer of "yes," however, is not possible. The Election Officer cannot definitively negate the possibility of some unitemized cash as having come from an improper contributor. By conducting thorough audits and interviewing numerous witnesses (from rank-and-file members, to campaign strategists and leaders, to outside vendors), the Election Officer believes that he has answered the three key questions to the extent possible and as necessary to support his conclusions about the Hoffa Slate's operations.

- We audited the books and records of 11 Hoffa Slate Campaigns, the Hoffa Support Team, Hoffa '96, and Mr. Hoffa personally. The audits examined all back-up documents available, and examined a selection of bank and other financial records subpoenaed from third parties. A list of the 11 audited slate campaigns is in Exhibit A, attached to this decision.

- We deposed under oath and/or interviewed over 300 individuals who had information relating to this protest or who could provide us with information about Hoffa Slate fundraising. The Election Officer personally questioned Mr. Hoffa, Mr. Leebove, and Mr. Pazzi on the record and under oath. Other witnesses included individual member contributors from around the country, Hoffa Slate members, and campaign vendors.

- We audited and/or subpoenaed financial information from over 20 entities that purportedly had close ties to the Hoffa Slate. These entities included local unions where Hoffa Slate members were officers, or that had officers who publicly supported Mr. Hoffa. The Election Officer conducted this inquiry to find evidence, if any, of money improperly diverted to the campaign from unions.

- We examined and subpoenaed major vendors of the campaign, including paraphernalia manufacturers and consultants to find whether third-party records would corroborate the major expenditures reported on the CCERs.

1. Summary of Findings

The Hoffa Slate Campaigns reported on their CCERs contributions totaling $3,632,980.69. Of this amount, $2,002,158.71 were reported as unitemized individual contributions of $100 or less ("small contributions"). Itemized contributions totaled $1,630,821.98.[6] Hoffa '96, Mr. Hoffa's national campaign entity, raised $66,272.90 in small contributions and the Hoffa Support Team raised $233,625 in small contributions. Mr. Hoffa directly controlled these two entities. The Hoffa Slate Campaigns, other than Mr. Hoffa's, raised approximately $1.7 million in small contributions.

The *Rules* did not require candidates to keep auditable records of all contributions and the investigation therefore cannot determine definitively, by audit, the source of all of the unitemized contributions of $100 or less. However, from the totality of the evidence – campaign records, local union records, third-party records, and witness testimony – at least the great majority of the small contributions to the Hoffa Slate Campaigns came from lawful sources. While the investigation found instances where contributions not itemized should have been reported under the *Rules*, the evidence shows that the underlying contributions apparently came from lawful sources. Apart from incidents investigated and remedied as part of an earlier protest (i.e., unlawful union contributions to the T.C. Stone Campaign, Thompson, P-1025-LU745-SOU (November 1, 1996), aff'd, 96 - Elec. App. - 268 (KC) (November 12, 1996); the investigation did not find evidence that the Hoffa Slate Campaigns had received anything but minimal contributions from prohibited sources.

The detailed evidence of the Hoffa Slate Campaigns' fundraising techniques supports the Election Officer's finding. The Hoffa Slate's strategy was to disseminate the candidates' message and build support at the grass roots level. Tactically, the Hoffa Slate supported its strategy with two fundraising techniques: holding low-cost, low-priced fundraising events that aimed for high turnouts; and selling and distributing campaign paraphernalia on a massive scale. Evidence gathered from witnesses around the country shows that these techniques were in fact used, and that this strategy of campaigning and fundraising at the grass roots level, not some secret source of prohibited funds, explains the small contributions to the Hoffa Slate.

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[6] These numbers are a product of the Election Officer's analysis of the CCERs. We have, where appropriate, recategorized certain contributions.

2. The Figures Reported on the Hoffa Slate Campaign CCERs are Consistent with the Slate's Stated "Grass Roots" Strategy

The Hoffa Slate ran a decentralized campaign. All 27 slate candidates were expected to run their own local campaign, and to meet their separate $75,000 pledge to the national campaign, with only limited input from headquarters. The investigation found that Hoffa Slate Campaigns around the United States and Canada used similar tactics. The campaigns raised money by holding "spaghetti dinner" fundraisers and by selling paraphernalia.

The contributions and expenditures reported by the Hoffa Slate Campaigns were consistent with these broad-based fundraising techniques. A review of slate member filings found over $1 million in reported receipts from the sales of paraphernalia. In addition, the reports show at least $1 million raised through fundraising events, which include large dinners, raffles, and parties with entertainment and speeches as well as the sale of paraphernalia at these events.

Netting out inter-candidate transfers, the investigation found that approximately $2 million in unitemized individual contributions of $100 or less was reported as raised through paraphernalia sales and fundraisers. The Hoffa Slate Campaigns spent $1.6 million on paraphernalia and fundraising events. The costs of renting facilities, food and drink, promotion (such as flyers) and printed invitations totaled $500,000. The Hoffa Slate Campaigns spent over $1.1 million on the purchase at wholesale prices of shirts, hats, jackets, toy trucks, and other paraphernalia.

This consideration of the reported figures is important in assessing whether the Hoffa Slate Campaigns could plausibly have raised over $2 million in small contributions. The objective answer from the reported numbers is yes. Looking at the amount of paraphernalia purchased, and the item costs alone, the campaign could have raised this sum. For example, the campaigns purchased Hoffa hats at a wholesale cost of $3.50 to $6.00 per hat. The hats were generally sold for $10.00 each, a mark-up of 66 to almost 200 percent over cost. Similar mark-ups were taken with jackets, t-shirts, and other items of paraphernalia. Mathematically, $1.1 million of paraphernalia sold at a 100 percent mark-up over cost would yield $2.2 million in revenue. Thus, if all of the purchased paraphernalia had been sold at consistent mark-ups, campaign revenues would have exceeded $2 million on paraphernalia sales alone. That is not a complete and sufficient explanation of the small contributions, because the campaigns gave some paraphernalia away as free promotional material, or sold it for less than the planned mark-up. However, this analysis of reported expenditures and receipts, considering the clearly stated philosophy of the Hoffa Campaign, shows that the reported $2 million in small contributions is plausibly within the range of revenue that this strategy would be expected to generate.

3. Evidence Gathered in Audits, Sworn Testimony and Interviews Supports the Finding that the Unitemized Small Contributions to the Hoffa Slate Campaigns Came from Lawful Sources

The Election Officer did not conclude that the Hoffa Slate Campaigns raised $2 million in small contributions from eligible contributors simply because that could be plausibly supported by the reported figures and the result was consistent with the campaign's strategy. The investigation necessarily went further, using available campaign and third-party records, to test whether evidence would show that the Hoffa Slate Campaigns actually raised the $2 million as reported. The Election Officer conducted this further investigation in two ways: by auditing certain slate campaigns and vendor records, and by interviewing individuals inside and outside the campaigns, including contributors.

The investigation found records that broadly confirmed the Hoffa Slate Campaigns' tremendous emphasis on distributing paraphernalia, and holding large inexpensive fundraisers. The investigation audited the vendors and confirmed that they had produced tens of thousands of hats, t-shirts, jackets, toy trucks, and other trinkets that the Hoffa Slate Campaigns sold. The investigation reviewed hundreds of deposit slips that reflected thousands of individual checks and hundreds of thousands of dollars in cash deposited to slate campaign accounts. The picture that emerges from these audits of campaigns in different locales is consistent with campaigns that received tens of thousands of small contributions in return for a piece of campaign paraphernalia, an inexpensive meal, or a raffle ticket. The number of deposited items generally agrees with and is explained by the timing and the amount of the paraphernalia ordered, and the timing and reported level of individual participation in identified fundraising events.

Additionally, over 200 individuals – campaign staff, candidates, and individual contributors – were interviewed concerning the fundraising practices of the Hoffa Slate Campaigns in general, and about specific paraphernalia sales and fundraising events. Interviews were conducted relating to campaigns in New York, Chicago, Kansas City, Cleveland, Texas, and areas of California. The interviews were done in person and by telephone, by Election Office staff and by the FBI. The consistent picture that emerges from these interviews is of enormous effort by the Hoffa Slate Campaigns to disseminate paraphernalia on a wide scale. In certain areas, most significantly the central region, Hoffa hats and shirts were widely distributed to the Teamster membership. The Hoffa Support Team purchased more than 37,000 pieces of paraphernalia. The Hogan Campaign purchased more than 16,000 garments just from one vendor. The Singer Campaign purchased more than 4,000 garments from one vendor, and the Young Campaign purchased more than 5,000 from one vendor. Carey supporters interviewed in this investigation spoke of the IBT

convention being deluged with "Hoffa ware." Dozens of Hoffa supporters interviewed gave detailed descriptions about the effort to sell numerous items of paraphernalia, and the items they had purchased individually.

The highest level of detail pursued in this investigation involved the audits of Hoffa '96, Hoffa Support Team, Mr. Hoffa personally, 11 Hoffa Slate candidates that gave Hoffa '96 large contributions, and 20 other local unions and vendors that were potential sources of prohibited contributions. The audits found instances where a candidate or committee had failed to itemize and report a contribution of more than $100. The audits did not find, however, unitemized contributions from prohibited sources, and the pattern and character of receipts reflected in the raw records audited further confirmed that the Hoffa Slate Campaigns raised money by distributing large amounts of paraphernalia and conducting low-priced, mass fundraising events.

1. Hoffa '96

Tom Pazzi opened the bank account for Hoffa '96 in June 1995. It functioned as the central cash depository for the national campaign. The $75,000 that each slate candidate was expected to raise was to be forwarded to the Hoffa '96 account.

The Election Officer reviewed all available documents concerning this account, including bank statements, canceled checks, deposit slips, and copies of contribution checks.

Hoffa '96 had contributions in the following categories:

Hoffa '96 – Total Reported Contributions	
Category	Amount
Transfers from Slate Members and Campaigns	$1,055,806.06
Itemized Checks Over $100	$165,069.75
Unitemized Small Contributions	$66,272.90
Total Receipts	$1,287,148.71

The audit identified 67' checks totaling $6,295 in aggregate, that Hoffa '96 included in the reported

unitemized total. Those contributions should have been itemized as over-$100 contributions. Additionally, the Election Officer identified $3,500 in cash donated by the Garnet Zimmerman Campaign was not itemized.[8] Also, a $3,775 check from the Committee to Elect Randall Copeland Campaign, was not itemized on the Hoffa '96 CCER.[9] The Election Officer finds that the improper reporting violated the *Rules*. The failure to report meant that Hoffa '96's funding sources were not completely open to scrutiny by the membership. While all of the over-$100 unitemized checks came from lawful sources, the *Rules* require disclosure so that the voting membership may evaluate the candidate in light of the financial backing received.

These checks constitute less than 5.5 percent of the money raised by Hoffa '96 from sources other than slate members. The investigation found no documentary or other evidence indicating that this non-disclosure was intentional. The only testimony obtained on the subject attributes the non-reporting to inadvertence. Thus, as a remedy, Hoffa '96 is 1) directed to file a supplemental CCER for the initial election itemizing and disclosing all such contributions that should have been previously disclosed; 2) fined $1,357, ten percent of the sum improperly reported.[10] The fine is ordered to be remitted to the Election Office within five (5) days of this decision.

The audit found no evidence that any part of the approximately $230,000 raised directly by Hoffa '96 came from prohibited sources. Analysis of the Hoffa '96 books and records and of bank deposit records found that the $66,272 in unitemized contributions consisted of separate small amounts consistent with paraphernalia sales and reported fundraising events. Of the $66,272, a significant amount is attributable to sales of paraphernalia by credit card.[11] The Election Officer finds that at least a substantial majority of the contributions, other than slate contributions, were obtained from lawful sources. While the possibility of illegal contributions cannot be definitively negated, no evidence of such contributions was found.

Because $1,055,806 of Hoffa '96's receipts originated as funds raised by other slate members and by the Hoffa Support Team, the Election Officer audited these major contributors and analyzed the evidence pertaining to small contributions made to those entities. The following committees or candidates were the principal slate contributors to Hoffa '96:

Hoffa Slate Campaigns – Reported Transfers to Hoffa '96 and Reported Spending on Paraphernalia			
Name/Candidate	Total Raised	Transferred to Hoffa '96	Spent on Paraphernalia
Hoffa Support Team	$455,000	$103,924	$240,000
William T. Hogan	$488,096	$60,000	$242,000
Phil Young	$301,000	$80,000	$90,000
Les Singer	$255,367	$84,000	$85,000
T.C. Stone	$150,264	$78,500	$7,000
Chuck Mack	$152,588	$78,500	$17,000
Pat Flynn	$134,000	$40,800	$41,000
Frank Wsol	$95,736	$30,000	$34,000
Chester Glanton	$29,713	$22,000	$7,000
Tom O'Donnell	$204,112	$82,000	$20,000
Jim Santangelo	$248,653	$58,300	$100,000
Mary Lou Salmeron[12]	$47,842	$25,000	$15,000
Totals for Hoffa Campaign	$3,632,980	$1,055,806	over $1,100,000

A separate summary of each audited and investigated campaign follows.[13]

2. Hoffa Support Team

Hoffa Support Team ("HST") transferred more than $100,000 to Hoffa '96. Opened in 1994 at the Teamster Credit Union of Detroit, it was the earliest account set up by Mr. Hoffa to support his campaign. Mr. Hoffa and Robert Rayes had signatory authority over the account. Mr. Hoffa supervised and controlled HST. He made the deposits, and wrote checks on the account until mid-1996. He worked personally with his accountants to prepare HST's CCER. He decided what checks to report on the CCER, which contributions to accept, and which to return.

In reviewing HST, the investigation examined the HST CCERs, all the records retained by the campaign, records subpoenaed from the Teamster Credit Union of Detroit," and records subpoenaed from major vendors of the campaign that received payments from HST. Mr. Hoffa, Mr. Pazzi, and other Hoffa Campaign operatives with knowledge of HST transactions were questioned under oath.

The HST CCER reported contributions in the following categories:

HST – Total Reported Contributions	
Category	Amount
Itemized Contributions	$220,426
Unitemized Small Contributions	$234,979
Total	$455,405

Of the total unitemized contributions, the audit has calculated that at least $125,000 was in cash.

HST reported spending $240,000 on paraphernalia purchases and $36,362 on fundraising events. In regard to the paraphernalia, audits of the vendors show that HST purchased more than 37,000 items, including 25,000 hats, and 8,900 t-shirts. HST's official price list reflects mark-ups on paraphernalia ranging from 50 to 200 percent over cost. Using a straight cost of goods analysis, the HST could easily have produced revenues exceeding $350,000. Taking into consideration that some goods were handed out free for promotional purposes, the Election Officer concludes that the volume of goods purchased and sold by HST reasonably justifies the total amount of reported contributions.

The Election Office examined HST account records to test whether the CCER accurately reported the value of deposits and expenditures. Auditors reviewed over 4,000 records in this process. Based on this review, the Election Officer has concluded that HST accurately reported its total receipts and expenditures.

The audit of HST also examined records to determine, where possible, the source of deposited funds, focusing on identifying the source of unitemized contributions. The unitemized contributions fell into two categories, as follows:

HST Unitemized Contributions	
Category	Amount
Unitemized Contributions Made by Check	$108,000
Unitemized Contributions Made in Cash	$125,000
Total Unitemized Contributions	$233,000

The auditors examined over 3,000 checks deposited to the HST account that comprise the $108,000 in unitemized contributions by check. Only four checks totaling $325 were identified as having come from an unlawful source.[15] The other un-itemized contributions by check appear to have been made by proper contributors.

The $125,000 in unitemized cash contributions of $100 or less could not be truly audited because, as permitted during the initial election, HST did not record detailed source information about each contribution. Circumstantial proof relating to these small contributions, however, supports a finding that the money came from lawful sources. The auditors examined the deposit history of the cash contributions and found that three deposits accounted for $52,647 of the cash. Each deposit corresponds to, and is explained by, a specific event aimed at an IBT member audience that generated the cash.

HST – Significant Cash Deposits		
Date of Deposit	Event	Amount of Deposit
March 21, 1996	Raffle – $15,000 in prizes paid	$17,040
July 23, 1996	IBT International Convention – Paraphernalia Sales	$21,041
September 16, 1996	Spaghetti Dinner – Detroit	$14,566

The Teamsters Credit Union did not keep records of the denominations of the deposits. However, during interviews, Credit Union employees stated that, as far as they could recall, the cash deposits consisted of currency in small denominations. The revenue from the three events appears appropriate in amount to each event. The balance of the unitemized cash contributions, approximately $72,353, is plausibly explained as proceeds from paraphernalia sales.

The absence of detailed source records for the unitemized small contributions means that this investigation cannot prove, by audit, that all of the cash came from proper sources. Nevertheless, the absence of records documenting anything above a minimal amount of improper contributions, and the testimony and circumstantial proof of funds raised through paraphernalia sales and identifiable fundraising events supports a finding that the $455,000 contributed to the HST came from lawful contributors.

The investigation found evidence that HST had failed to report a number of lawful contributions as required. At least 194 individual contributions of more than $100, totaling $43,868.80, were not disclosed. HST improperly reported the amounts received in the catch-all un-itemized category.[16] Prominent among the undisclosed checks was a $1,000 contribution made by William McCarthy, the former IBT General President.

When asked particularly about the failure to report the McCarthy contribution, Mr. Hoffa testified that it was "[h]ard for [him] to imagine" had no explanation other than to describe it as "[o]bviously . . . an oversight." Mr. Hoffa claimed that some of the checks not reported reflected contributions of $100 or less collected by one person and consolidated into a single check for convenience from others. He did not describe the McCarthy contribution in those terms and recognized it as a gift from the former General President.

Mr. Hoffa's testimony on the preparation of the CCERs, and the omission of the McCarthy contribution was not complete or accurate. Sworn testimony from other witnesses demonstrates that Mr. Hoffa personally decided which checks and contributions to itemize and which checks to lump into the aggregate of money not itemized.

Mr. Pazzi and David Hoffa both testified that Mr. Hoffa personally handled the financial reporting to the Election Office. This investigation obtained sworn testimony from the accountant that worked with Mr. Hoffa to prepare the CCERs. The accountant described the process in detail. According to that testimony, Mr. Hoffa would arrive at the accountant's office a few days before the CCER filing date and bring bank statements, copies of checks and other raw material reflecting the campaign's monetary receipts and expenditures. Mr. Hoffa would work with the accountant to identify those contributions to itemize by source and those to be aggregates. If a particular check was for a sum greater that $100, Mr. Hoffa would tell the accountant whether that reflected a contribution from the person who wrote the check or whether it reflected a consolidation of smaller sums received by that individual from paraphernalia sales, raffle ticket sales, or similar transaction with other contributions. The accountant said the Mr. Hoffa's statements were the only source of information for these facts.

After reviewing the basic documents, the accountant would compile the data into the required format for the CCERs and provide that draft document for Mr. Hoffa to review. The accountant testified that Mr. Hoffa, and no one elese, had the authority to edit the document. Mr. Hoffa reviewed the draft in the accountant's presence and marked his changes directly on the draft.

Regarding the $1,000 contribution check from William McCarthy, the HST accountants produced for the Election Office a draft CCER which listed that check as an itemized contribution, but which then had an "X" written next to it. The final CCER, signed by Mr. Hoffa and filed with the Election Office, did not list the McCarthy contribution.

The accountant had no specific recollection of how that check was removed from the itemized section of the draft CCER and lumped with the general contributions. However, based upon the procedures that HST regularly followed for the preparation of CCERs, and the mark that appears next to that entry on the draft, the accountant believes that Mr. Hoffa personally removed information about Mr. McCarthy's contribution from the itemized list. The head of the accounting firm, while he did not participate personally in the preparation of the CCERs, had a

general awareness of the practices followed in creating the document. He too believes that Mr. Hoffa directed the reclassification of the McCarthy $1,000 check.

The failure to itemize and disclose publicly the source of HST's contributions deprived the IBT membership of full information on the identity of Mr. Hoffa's financial backers. While the underlying records indicate that the contributions that should have been itemized -- including the McCarthy contribution -- came from proper sources, full disclosure of the identity of financial supporters is a critical part of the democratic election process. The deliberate decision to conceal the contributions from former IBT General President McCarthy is a very serious reporting violation. Moreover, Mr. Hoffa did not testify fully or accurately in this investigation concerning his knowledge of how the McCarthy contribution was reported. Neither Mr. Hoffa nor any candidate can be allowed to manipulate the disclosure system for political, personal or other reasons and conceal even proper contributions.

This violation in particular requires a remedy that will both cure the non-disclosure and encourage all candidates to comply with the reporting requirements. Accordingly, HST is (1) directed to file a supplemental CCER itemizing all contributions that should have been previously disclosed; (2) fined the sum of $4,286, 10 percent of the aggregate sum improperly reported; (3) fined $1,000, and amount equal to the sum of contribution from William J. McCarthy that was knowingly and intentionally not reported. The fines shall be remitted to the Election Office within five (5) days of the date of this decision.

Furthermore, a notice will be published in the next issue of the *Teamster* magazine to inform the entire membership of Mr. Hoffa's intentional non-disclosure and his false testimony in this investigation concerning the McCarthy contribution. The notice will read as follows:

> To All Members of the International Brotherhood of Teamsters:
>
> On April 27, 1998, Michael G. Cherkasky, the court-appointed Election Officer, issued a ruling in an election protest filed against James P. Hoffa and members of the Hoffa Slate concerning the 1996 IBT Officer Election. Among other findings, the Election Officer found that Mr. Hoffa had not properly reported $43,868.60 in contributed money.
>
> The Election Officer also found that Mr. Hoffa personally decided not to report publicly a $1,000 contribution he received from former IBT General President William J. McCarthy. The contribution itself was proper. The Election Officer's investigation found, however, that Mr. Hoffa personally decided not to list Mr. McCarthy's contribution on his publicly filed report.
>
> When asked about this matter, Mr. Hoffa gave sworn testimony under oath that the non-disclosure of Mr. McCarthy's contribution was an "oversight." Based on other evidence, however, it is clear that Mr. Hoffa personally reviewed his campaign filings and personally decided not to disclose the McCarthy

contribution to the IBT membership or to the public. Mr. Hoffa's sworn testimony on this subject was not complete, and was inaccurate.

The Election Officer fined Mr. Hoffa's campaign $1,000 for not reporting the McCarthy contribution. The Election Officer fined Mr. Hoffa's campaign $4,286 for the other contributions not disclosed. The Election Officer has also fined Mr. Hoffa's campaign $17,650 for receiving $176,500 in services from an employer, Richard Leebove.

Full disclosure of the source of contributions to candidates is essential information that the IBT membership is entitled to have. It tells the members who a candidate is depending upon for money. The Election Officer will impose strong remedies against any candidate that fails to make full disclosure of contributions.

For more information about the Election Officer's ruling, including details about the remedies imposed on Mr. Hoffa and others, turn to the Election Officer's message in this magazine, or visit the website of Kroll Associates, Inc., at www.krollassociates.com.

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Michael G. Cherkasky
Election Officer

3. James P. Hoffa Personal and Family Accounts

The Election Officer audited Mr. Hoffa's personal financial records. This part of the investigation focused on whether sources that could not lawfully contribute to the campaign had channeled funds into the campaign through Mr. Hoffa's personal accounts. Mr. Hoffa provided records of his personal and family accounts, including bank accounts, brokerage accounts, and retirement accounts. Records were subpoenaed from Mr. Hoffa's bank to check and corroborate the records produced personally by Mr. Hoffa. The Election Officer did not find any money from an unlawful source that was channeled through Mr. Hoffa and into his campaign.

4. William T. Hogan, Jr. Campaign Fund

Mr. Hogan was a candidate for General Secretary-Treasurer on the Hoffa Slate and has previously served as Secretary-Treasurer of Local Union 714 and President of Joint Council 25. Mr. Hogan resigned from the IBT in August 1996 after the IRB charged him with misconduct in connection with the operation of Local Union 714.

Mr. Hogan's campaign contributed $50,000 to Hoffa '96. It spent hundreds of thousands of dollars on paraphernalia, and raised hundreds of thousands of dollars at rallies. The Election Officer reviewed the books and records of the William T. Hogan, Jr. Campaign Fund ("Hogan Campaign") for 1996 and 1997 to determine, as far as possible, the source of un-itemized contributions to the campaign.[17] In addition to reviewing records, interviews were conducted of Mr. Hogan, Mr. Passo, the campaign's office manager, other individuals closely associated with the campaign, and of individual contributors.

The receipts reported by the Hogan Campaign fall into the following categories:

Hogan Campaign – Total Reported Receipts	
Category	Amount
Itemized Contributions	$149,541.65
Unitemized Small Contributions	$325,944.00
Total	$475,485.65

Of the unitemized contributions, the Hogan Campaign reported collecting approximately $300,000 at various fundraising events and through the sale of paraphernalia. The reports itemized these contributions by event, rather than by name of individual contributors.

Election Office auditors examined available Hogan Campaign records. Although bank statements were not complete for 1995 and 1996, the Hogan Campaign did keep photocopies of checks deposited into its accounts. These were examined and traced on a test basis to the bank deposits and CCER reports. The checks reflected numerous small contributions from individuals consistent with the pattern of raising funds by selling paraphernalia and by holding low-priced fundraising events.

The Election Officer took sworn testimony and conducted dozens of interviews of persons close to the Hogan Campaign and IBT members from the Chicago area. These witnesses testified consistently about the Hogan Campaign's strong effort to sell Hoffa paraphernalia to the Chicago area membership. By all accounts, no other campaign in the country was as focused, or as successful, at selling paraphernalia.

The Hogan Campaign's expenditures on paraphernalia were consistent with the witness testimony concerning the large-scale effort to sell such items. Half of the Hogan Campaign's total money raised – $242,951 – went to purchase campaign paraphernalia that was marked up in price and sold. The largest vendor of campaign paraphernalia to the Hogan Campaign, J.D. Custom Printing, received a total of $206,072.

Auditors verified the amount paid to J.D. Custom by examining records subpoenaed from the vendor. The subpoenaed material further corroborated the volume of items actually purchased. The Hogan Campaign purchased hats, t-shirts, jackets, and other items by the thousands. No special pricing was applied to these purchases: J.D. Custom charged the Hogan Campaign the same amount for items as it charged commercially to other campaigns and local union purchasers.

The Hogan Campaign also held large fundraising events. Individual events would attract hundreds of individuals, each of whom would have purchased a ticket (which would be a contribution), and each of whom would then have had the opportunity to purchase campaign paraphernalia. The Election Officer audited available records of fundraising events, including records obtained from the fundraising venues, to determine whether those records supported the reported revenues. We also interviewed over a dozen fundraiser attendees. The reported revenues were consistent with the attendance and pricing of the identified fundraising events.

For example, on October 11, 1997, the Hogan Campaign held a fundraising event at the Maywood Racetrack outside of Chicago. Tickets to the event cost $100 each and, thus, were not subject to itemization as individual contributions. The receipts reported on the CCER reflect an attendance of 191 individuals. While the source of the gross receipts cannot be audited (there was no requirement to keep detailed information as to each ticket purchase or attendee, and none was kept), the Election Officer was able to corroborate the Hogan Campaign's report, as to the size and nature of the event, by examining Maywood Racetrack's records and through witness interviews about the event. Both the witness interviews and the records support the Hogan Campaign's report. Witnesses described the proper sale of tickets to members through networks of friends and business agents. They also described the large turnout at the event. Maywood Racetrack's records showing the calculation of the total price based on headcount further corroborate the Hogan Campaign's report of the event. This evidence supports the Election Officer's conclusion that Hogan Campaign CCERs accurately report amounts raised at fundraising events, and that the sums reported were generated by individual payments from large numbers of attendees.

In sum, the Election Officer finds that there is strong evidence that at least a substantial majority of the contributions to the Hogan Campaign came from lawful sources. Additionally, the investigation did not find evidence of any improper contributions. The possibility of illegal contributions cannot be definitively negated, because the records are not fully auditable: however, the investigation found no evidence of such contributions.

5. Phil Young and the Young Support Team

Phil Young ran on the Hoffa Slate as a candidate for Central Region International Vice-President, and was elected to that position in the initial election. Mr. Young is President of Local Union 41 and Joint Council 56 serving locals in Kansas and Western Missouri. He was formerly the President of the Mo-Kan Conference of Teamsters ("Mo-Kan"), representing all local unions in Kansas and Missouri, a position he relinquished upon election to International office. The Election Officer audited the books and records of Mr. Young's campaign organization, the Young Support Team ("YST").

The total reported contributions to YST fall into the following categories:

YST – Total Reported Contributions	
Category	Amount

Itemized Contributions	$117,180.97
Unitemized Small Contributions	$183,642.89
Total	$300,823.86

$181,081.89 of the unitemized small contributions came from various events that were itemized on the CCERs by event, rather than by the individual donors.

The records maintained by YST appeared organized and complete. YST kept, and made available for auditors to review, five (5) storage boxes filled with receipts from raffle tickets. With respect to cash receipts, YST kept detailed schedules listing each contributor by name and a running balance of amounts contributed. In addition, YST retained a photocopy of each check it received for deposit. These deposited items were verified against YST's accounting summary schedule and the campaign CCERs on a test basis. No exceptions were noted based upon that review.

Hoffa '96 received $80,140.50 from YST. Of this amount, $76,000 represented contributions and $4,140.50 was paid for postcards. YST paid an additional $662.18 to the Hoffa Retire the Debt initiative between September 18, 1997, and December 2, 1997. YST also contributed $4,900 directly to the Hoffa-McClain Campaign Committee on September 13, 1996.

The Election Officer conducted over a dozen interviews with contributors to YST. They confirmed their contributions, and that YST had raised money by holding events that generated many small contributions (e.g., raffles). The Election Officer audited Local Union 41, Mr. Young's local, and found no money going to YST, or any other Hoffa Slate entity.

The Election Officer finds that at least a substantial majority of the contributions to YST were from lawful sources. While the possibility of illegal contributions cannot be definitively negated, no evidence of such contributions was found.

6. Lester Singer

Lester Singer ran on the Hoffa Slate as a candidate for Central Region International Vice-President and was elected to that position in the initial election. Mr. Singer is also the President of Local Union 20 in Toledo, Ohio. The Election Officer audited the books and records of the Ohio Campaign '96 ("Ohio '96"), Mr. Singer's campaign organization. The audit examined the Ohio '96 CCERs, bank statements, the cash receipts and disbursements journal, and paid vendor invoices. The audit found that Ohio '96 had accurately reported its contributions and expenditures.

The total reported contributions to Ohio '96 fall into the following categories:

Ohio '96 – Total Reported Contributions	
Category	Amount
Itemized Contributions	$136,803.00
Unitemized Small Contributions	$118,563.79
Total	$255,366.79

Ohio'96 contributed $84,307.25 to the Hoffa '96 Campaign. Half of the remaining balance of the contributions (approximately $85,000) was expended on the purchase of campaign paraphernalia such as hats, t-shirts, sweatshirts, and other wearable paraphernalia. As with the Hogan Campaign, J.D. Custom Printing of Berwyn, Illinois was the largest vendor to Ohio '96. The auditors verified the amounts expended on paraphernalia by examining records of J.D. Custom Printing. Sales of the paraphernalia purchased by Ohio '96, with less than a 40 percent mark-up over cost, could easily account for the full amount of unitemized cash contributions.[18]

The Election Officer conducted over a dozen interviews with contributors to Ohio '96. The interviewees confirmed their own contributions, and corroborated Ohio '96's use of paraphernalia sales as a fundraising technique. The Election Officer also looked at the books and records of Local Union 20, Mr. Singer's local. This audit found no money going to Ohio '96, or Hoffa '96 from the local union.

The Election Officer finds that at least a substantial majority of the contributions to Ohio '96 were from lawful sources. While the possibility of illegal contributions cannot be definitively negated, no evidence of such contributions was found.

7. T.C. Stone

T. C. Stone was a candidate for Southern Region International Vice-President and an officer of Local Union 745 in Dallas, Texas, until July 1996 when a Trustee was appointed to manage the affairs of the local union. Mr. Stone also headed the Texas Teamsters Conference and Joint Council 80. The Election Officer audited the books and records of Mr. Stone's campaign. The audit examined Mr. Stone's CCERs along with the corresponding bank statements, cancelled checks, deposit tickets, copies of deposited checks, and invoices supporting campaign expenditures for the period December 1995 through December 1996.

The total contributions to Mr. Stone's campaign fall into the following categories:

T.C. Stone – Total Reported Contributions	
Category	Amount
Itemized Contributions	$53,658
Unitemized Small Contributions	$96,606
Total	$150,264

The $96,606 in unitemized contributions is composed of $43,348 from general fundraising and $53,258 reportedly collected at a June 1, 1996 rally. The rally proceeds purportedly include proceeds from admission ticket sales, paraphernalia sales, and raffle ticket sales. Most of the purported rally collections were made either in cash, or in checks from local union officials who allegedly collected cash from numerous individuals and consolidated the donations. Many of the deposited checks from officials and campaign supporters were not itemized on the CCERs. Much of the cash was deposited without any explanation as to its source.

There was little or no demonstrated control or accountability over ticket and paraphernalia sales. There were no witnesses that could provide testimony to explain the fundraising techniques used or provide some context for evaluating whether Mr. Stone complied with the *Rules*. Since his departure from the IBT, Mr. Stone has adopted an itinerant lifestyle, and he was not interviewed. This paucity of evidence made it difficult, if not impossible, to determine whether or not any contributions were lawful. For example, the records contain nothing showing the number of

admission tickets or raffle tickets sold at the rally. While the Stone Campaign reports approximately $7,000 in paraphernalia purchases, there are no records or testimony indicating the volume of the material purchased, or how this material was sold or distributed.

The CCERs itemized receipts that included $5,000 in individual contributions from seven Local 745 officials. The Election Officer investigated these contributions and determined that they resulted from pay raises which were purportedly given to these officials by Mr. Stone, then contributed to Mr. Stone's campaign, at his direction. The Election Officer ordered the Stone Campaign to return the $35,000 to Local Union 745, and the campaign paid that sum to the local. Thompson, P-1025-LU745-SOU (November 1, 1996), aff'd, 96 - Elec. App. - 268 (KC) (Nov. 12, 1996).

The CCERs reflected a total of $156,951 in campaign expenditures. Of this amount $78,440 was paid to Hoffa '96. The $35,000 in returned local union funds, the $10,000 paid to the rally raffle winner, a $10,000 contribution to fellow Hoffa Slate candidate Randall Copeland, and $6,742 for paraphernalia purchases comprise most of the remaining expenditures. The Election Officer audited Local 745 and found no other improper contributions to the Stone Campaign.

Although we did not observe any indications that the Stone Campaign committed improprieties beyond those already found by the Election Officer, due to the lack of accountability, the large volume of cash transactions, and the scarcity of records, the possibility of improper activity cannot be negated. The lack of campaign financial documentation and other evidence precludes the Election Officer from reaching any conclusion about the propriety of the source of Mr. Stone's Campaign funds.

8. Chuck Mack

Chuck Mack is the Secretary-Treasurer of Local Union 70 in Oakland, California, and IBT Joint Council 7. Mr. Mack was a candidate for Western Region International Vice-President on the Hoffa Slate. The Election Officer examined the financial records of Mr. Mack's campaign.

Reported contributions to the Mack Campaign fall into the following categories:

Mack Campaign – Total Reported Contributions	
Category	Amount

Itemized Contributions	$44,858
Un-itemized Small Contributions	$107,730
Total	$152,588

The Mack Campaign transferred $78,500, more than half of the total reported contributions, to Hoffa '96.

The Mack Campaign raised money mainly by holding fundraising dinners for large numbers of people. The Mack Campaign reported raising approximately $86,547 at 16 separate dinners. An event in Oakland on October 5, 1996 had as many as 1,200 attendees and raised $33,986. Another Oakland event raised $16,476. The Mack Campaign also reported $16,010 in receipts from paraphernalia sales. The investigation sought corroboration of this reported activity by examining available records and by taking sworn statements and interviews about Mr. Mack's fundraising activity. Election Office auditors questioned Mr. Mack as part of their examination of the campaign's financial records.

Witness statements corroborated the Mack Campaign's reports of having raised funds by holding large dinners.[19] Individual contributors interviewed by the Election Office consistently described the dinners as well-attended events. Combined with the reported ticket prices, the evidence that these large events actually occurred provides general support for the fundraising activity reported on the Mack Campaign CCERs.

The Election Officer identified 11 individuals that contributed more than $1,000 to the Mack Campaign. The auditors verified the individuals' reported status as IBT members, and that each individual was the immediate source of the donated funds. In each case, the individuals stated that the money was contributed either from personal funds, or reflected money collected from paraphernalia sales.

On the expense side, the audit identified over $17,000 in expenses attributable to running the fundraising events. The Mack Campaign also spent $11,189 on the purchase of t-shirts.

The Election Officer audited Local Union 70 and found no money going to the Mack or Hoffa Campaigns.

The Election Officer discovered no evidence of illegal contributions. The reported contributions were explainable and consistent with the witness statements taken and the available documentation of expenditures. Thus, the Election Officer finds that at least a substantial majority of the Mack Campaign's non-itemized contributions came

from lawful sources. While there remains the potential that illegal contributions were made, no evidence of such contributions was found.

9. Patrick Flynn

In June 1996, Patrick Flynn replaced Frank Wsol as a candidate for Central Region International Vice-President on the Hoffa Slate. Mr. Flynn was elected to that position in the initial election. Mr. Flynn is President of Local Union 710.

Reported contributions to the Flynn campaign fall into the following categories:

Flynn Campaign – Total Reported Contributions	
Category	Amount
Itemized Contributions	$108,000
Unitemized Small Contributions	$26,000
Total	$134,000

The Flynn Campaign contributed $40,800 to Hoffa '96.

The Election Officer used the Flynn Campaign to examine closely the reporting of itemized contributions. Mr. Flynn was interviewed in person. Over 30 individual contributors, selected because each was reported as having contributed $500 or more, were interviewed. Four of those contributors gave sworn testimony and many others were interviewed in person. The Election Office obtained bank records from individual contributors in order to corroborate their individual statements about the source of contributed funds.

The Election Officer finds, from this evidence, that the Flynn Campaign accurately reported the total amount of contributions. However, the investigation revealed that the funds, while coming from the individual listed, frequently reflected money collected by the immediate donor from paraphernalia sales. The investigation found no evidence of ineligible contributors and, although the paraphernalia sales could not be audited, the witnesses described an organized, active program that sold paraphernalia to the voting membership.

In general, the investigation found that expenditures correlated to receipts reflecting paraphernalia purchases and costs associated with the events. The chronology of the receipt of contributions was consistent with the payments for major fundraising events. An example is the reported October 1996 dinner at the Bridgeview Manor. Documents of the Flynn Campaign back up the reported expenditure of $20,000 for the banquet hall and dinner. A substantial part of the $41,000 paid to Sanatex for paraphernalia was spent at a time when materials would logically have been ordered for sale or distribution at the dinner. The fundraising costs are matched in time by more than $100,000 in contributions in the same period.

The Election Officer audited Local Union 710 and found no money going to the Flynn or Hoffa Campaigns.

The Election Officer finds that at least a substantial majority of the Flynn Campaign's un-itemized contributions came from lawful sources. While the potential that illegal contributions were made cannot be negated, no evidence of such contributions was found.

10. Frank Wsol

Frank Wsol was the long-time Secretary-Treasurer of Local Union 710. He ran for Central Region International Vice-President on the Hoffa Slate until April 1996, at which time the IBT suspended him from the union. Although Mr. Wsol was reinstated to membership at the 1996 International convention, he had already been replaced on the Hoffa Slate by Local Union 710 Vice President Patrick Flynn.

The Wsol Campaign filed two CCERs, covering the period of June 1995 through January 1996. The Election Officer audited the books and records of the Wsol Campaign. The total contributions fall into the following categories:

Wsol Campaign – Total Reported Contributions	
Category	Amount
Itemized contributions	$46,290
Un-itemized small contributions	$49,446
Total	$95,736

The Wsol Campaign contributed $25,000 to Hoffa '96. Additionally, Mr. Wsol personally contributed $5,000 to Hoffa '96. The records maintained by the Wsol Campaign were incomplete. The campaign filed no CCER for the January 21, 1996, to May 21, 1996 time period, and the campaign records kept for that time were not complete. For the period from June 1995 through January 1996 the Campaign kept a journal that recorded each contribution, even if it

was not itemized on a CCER. There were some discrepancies for this period between the journal and the CCERs, including paraphernalia purchases and individual contributions that appeared in the journal but were not reported on the CCER.[20] Despite the gaps in the Wsol Campaign's records, the Election Officer finds that at least a substantial majority of contributions during this time period came from lawful sources. Evidence supporting this conclusion includes witness testimony that the Wsol Campaign raised money by selling paraphernalia, verification of paraphernalia purchases with the vendors, and journal entries that Mr. Wsol credibly explained as reflecting receipts from paraphernalia sales.

11. Chester Glanton

Chester Glanton is President of Local Union 743 in Chicago. He was elected to this office in June 1996. Mr. Glanton was a candidate for the office of International Vice-President at Large on the Hoffa Slate. The Hoffa-Glanton '96 Campaign ("Glanton Campaign") raised a total of $29,713.44. Reported contributions to the Glanton Campaign fall into the following categories:

Glanton Campaign – Total Reported Contributions	
Category	Amount
Itemized Contributions	$21,650.00
Unitemized Small Contributions	$8,063.44
Total	$29,713.44

The itemized contributions, 73 percent of the Glanton Campaign's total receipts, are fully supported by records. For the period from January 21 to May 21, 1996, the records are not auditable and the Election Officer therefore cannot reach any conclusion on the exact amount contributed or the source of the contributions. However, no evidence of illegal contributions was found.

Glanton Campaign records show that Mr. Glanton contributed $11,500 to his own campaign.[21] This amounts to 39 percent of the Glanton Campaign's total receipts. Thus, the candidate was the single largest source of financial support for his own campaign. The remaining individual itemized contributors were readily identified as current or

retired members of Local Union 743, with the exception of Robert Barnes, who was the Secretary-Treasurer of Local Union 301. Contributors associated with Local Union 743 gave itemized contributions in amounts from $200 to $1,000, excluding tickets to fundraising events and paraphernalia purchases.

A Glanton Campaign fundraiser held on December 6, 1996, generated a deposit to the campaign account of $5,903.41. The cash analysis prepared by the Glanton Campaign shows that this combined deposit contained $3,580 from tickets sold for the Glanton Campaign's fundraising event and $1,195 from t-shirts sales.

The Glanton Campaign's expenditures are also readily identifiable and reasonable. The Glanton Campaign contributed $22,000 to Hoffa '96, and spent approximately $7,000 on paraphernalia purchases.

The Election Officer audited Local Union 743 and found no money going to the Glanton or Hoffa Campaigns.

The Election Officer found no improper contributions made to the Glanton Campaign. The contributions not itemized are readily explainable from an analysis of the campaign's receipts and expenditures. Thus, the Election Officer finds that at least a substantial majority of the Glanton Campaign's contributions came from lawful sources. While the potential that illegal contributions were made cannot be definitively negated, no evidence of such contributions was found.

12. Tom O'Donnell

Tom O'Donnell is the President of Local Union 817. He ran for International Vice-President at Large on the Hoffa Slate. His campaign organization, Friends of Tom O'Donnell ("FTO"), raised $204,112 in contributions. The reported contributions fall into the following categories:

FTO – Total Reported Contributions	
Category	Amount
Itemized Contributions	$158,641
Un-itemized Small Contributions	$45,471
Total	$204,112

FTO contributed $82,000 to Hoffa '96.

The itemized contributions to FTO were unique among the slate campaigns in terms of member participation and amount. Out of 270 total members in Local Union 817, FTO reported that 119 members contributed $1,000 or more. An additional 34 members contributed between $500 and $1,000. Thus, more than 80 percent of the local union membership contributed and the reported amounts were very high when compared to other campaigns.

The Election Officer commenced an investigation of these contributions. The FBI interviewed 32 contributors in person. After reviewing the interview notes and speaking to the FBI, the Election Officer finds that the contributions were proper in themselves, and were properly reported. Of the $45,471 in small contributions, $36,107 was raised through identified fundraising events.

The Election Officer audited Local Union 817 and found no money going to the O'Donnell or Hoffa Campaigns. The Election Officer found no evidence of an improper, or ineligible contribution to FTO.

13. Jim Santangelo

Jim Santangelo was a candidate for Western Region International Vice-President on the Hoffa Slate. Mr. Santangelo is the Secretary-Treasurer of Local 848, located in Los Angeles California. The Election Officer audited the books and records of his campaign, Santangelo '96.

The total contributions to Santangelo '96 fall into the following categories:

Santangelo '96 – Total Reported Contributions	
Category	Amount
Itemized contributions	$123,498
Unitemized small contributions	$125,155
Total contributions	$248,653

Santangelo '96 donated $58,300 to Hoffa '96.

The books and records for Santangelo '96 appeared well organized. The Election Officer used deposit slips and canceled checks to corroborate the CCERs. We reviewed 113 individual

deposits that comprised the total deposits of $248,653. Of the total deposits, $82,598 were in cash, $151,933 were by 1,429 checks, $6,662 were by 131 credit card deposits, and $7,460 were unknown.

The audit found $2,000 in un-reported contributions from the Local 848 Officers and Employers Fund.[22] Further, we found ten unitemized checks, totaling $637, that should have been individually itemized.[23] The Election Officer finds the Santangelo Campaign failed to properly report $2,637 in contributions. Accordingly, the Santangelo Campaign is fined $263, ten percent of the improperly reported sum. The Santangelo Campaign is ordered to remit the fine to the Election Officer within five (5) days of the date of this decision.

The Santangelo '96 Campaign followed the general pattern of the Hoffa Slate, raising money through massive paraphernalia sales and small fund raisers. The Santangelo '96 Campaign focused on paraphernalia. The campaign spent approximately $100,000 to purchase paraphernalia. A return of over $100,000 was conservatively to be expected. The campaign also raised money through direct solicitation. The Election Officer interviewed over 20 contributors who corroborated their contributions and the manner in which money was raised by Santangelo '96.

The Election Officer finds that at least a substantial majority of the contributions to Santangelo '96 were obtained from lawful sources. While the possibility of illegal contributions other than the $2,000 from the Officers and Employees Fund cannot be negated, no evidence of such contributions was found.

14. Other Alleged Sources of Improper Contributions to the Hoffa Slate

(1) Local Union 337

The Election Officer received a specific allegation that Local Union 337 had been a source of cash and office supplies for the Hoffa Slate. The alleged cash scheme involved the granting of raises to certain union officers during the last three months of 1996, which were then contributed to the Hoffa Campaign by the recipients. In pursuing this allegation, the Election Officer initially contacted the IRB, which provided the Election Office with depositions already taken concerning this allegation. The Election Officer then commenced an audit of Local Union 337, took seven additional depositions, and interviewed a series of other witnesses. The Election Officer finds that although money was apparently diverted improperly to a Local Union officer's campaign, there is no evidence directly linking the money to the Hoffa Slate.

Beginning with the October 18, 1996 pay period, all 14 executive officers and business agents of Local 337 received a $100 pay raise per week. The raises were included in each weekly paycheck until the raise was rescinded for the pay period of January 31, 1997. The raises totaled $2,500 in pay. In addition, on November 26, 1996, all 14 individuals received both a Christmas Bonus, and a second check entitled "in lieu of wage increase." The "in lieu of wages increase" was for $2,500, while the Christmas Bonus varied from between over $6,800 to under $3,500. All of the "in lieu of wage increase" checks were turned over to Colonel Meyers, an executive officer in Local Union 337, and cashed by him at a Dearborn, Michigan, bank on November 26, 1996. Mr. Meyer testified that he then gave the cash to Carlo Scalf.

Mr. Scalf is an administrator with Local Union 337. He also is a long-time supporter of Mr. Hoffa. Mr. Scalf ran a number of fundraising events for Mr. Hoffa during the 1996 campaign. Additionally, Mr. Scalf helped run the 1997 Local Union 337 rerun election for Larry Brennan's slate. Mr. Scalf testified that he was given the cash from the "in lieu of wage increase" bonuses and passed out envelopes containing the cash to all 14 participants. Scalf also testified that around the same time as the "in lieu of wage increase" payout, he received $2,000 in cash from each of the 14 executive officers and Business Agents of Local Union 337 as

contributions for Mr. Brennan's campaign in a Local Union 337 rerun election that occurred at about the same time as the IBT International officer election.

Testimony of the Business Agents was consistent as to the amount of pay, the bonus they received, that Mr. Meyers cashed their "in lieu of wage increase" check, that they received the cash back, and that they then gave Mr. Scalf $2,000 for the Local Union 337 rerun campaign. However, there were numerous inconsistencies and failures of memory concerning the details of the transactions. One consistent theme was that the cash "contributions" made by the Business Agents and Executive Officers were for the Local Union 337 election and not the Hoffa Campaign.

The Election Officer finds the circumstances surrounding the pay raise and mass conversion to Mr. Scalf disturbing. However, the witnesses stated consistently, under oath, that the money "contributed" by the Business Agents and Executive Officers was for the Local Union 337 election, not the Hoffa Campaign. The investigation found no evidence to the contrary. Nor did the investigation find any evidence that the cash was deposited to, or used for the benefit of any Hoffa Slate Campaign. Accordingly, the matter is not within the Election Officer's jurisdiction. The Election Officer does not make a finding concerning whether the raises were a subterfuge for an improper contribution to a campaign in the Local Union 337 election. The matter is referred to the IRB.

(2) Local Union 614 and Michael Bane

The protester alleged that it was suspicious that more donations were not reported from Local Union 614, whose President is Michael Bane, a vocal supporter of Mr. Hoffa.

The Election Officer audited the records of Local Union 614 and the investigation did not find any evidence that any local union funds were deposited to, or used for the benefit of the Hoffa Slate Campaign.

(3) Teamster Local Union No. 507 Charitable, Educational and Recreational Fund ("507 CER Fund")

The Election Officer received an allegation that the 507 CER Fund spent $831,000 on recreation, when in actuality the money was used to purchase Hoffa paraphernalia and for Hoffa rallies that occurred during the 1996 IBT International officer election.

The Election Officer audited the books and records of the 507 CER Fund between July 1, 1995, and December 31, 1997, and reviewed the 507 CER Fund's Cash Disbursement Journal, vouchers for disbursement, canceled checks and vendor invoices. The audit disclosed hundreds of thousands of dollars worth of purchases for items ranging from softball uniforms to Christmas party merchandise such as 7,000 candy canes, 11,500 knit hats, and 5,600 plastic mugs. The Christmas parties sponsored by the 507 CER Fund alone required approximately $200,000 for food, equipment rental, and entertainment. The audit found some loose accounting practices, but found ample back-up for most of the $831,000 in expenditures.

While the possibility of illegal contributions cannot be ruled out, the Election Officer found no evidence of any diversion of funds to the Hoffa Campaign.

4. Conclusions

In sum the Election Officer finds credible evidence that at least a substantial majority of the over $2 million in un-itemized contributions made to the Hoffa Slate Campaigns came from lawful sources. While a significant dollar amount of contributions could not be traced and, therefore, could potentially have come from improper sources, there is no evidence of such improper contributions. Further, the Election Officer finds that there is no evidence of improper contributions from Local unions, vendors, consultants, or other ineligible donors except as discussed.

2. Allegation Concerning Mr. Hoffa's Travel Expenses and Wages

The protester contends that Mr. Hoffa engaged in extensive travel, often accompanied by Mr. Leebove or other members of his campaign staff, but that the full cost of the travel is not reported on his CCERs. For example, the protest contends that Mr. Hoffa and his campaign spent "only $12,000" in travel expenses during the last four months of the campaign. The protester also alleges that Joint Council 43 paid Mr. Hoffa approximately 60 percent of his salary and allowances during the last four months of the campaign, even though his "work" was totally campaign-related.

The Election Officer interviewed Mr. Hoffa and Mr. Brennan under oath, and carefully reviewed the campaign travel records and Joint Council 43's payroll records. Based on this investigation, the Election Officer finds that the allegations are based on incorrect information and are unsubstantiated.

1. Travel Expenses

During the investigation of this allegation, the Election Officer reviewed the CCERs for HST and Hoffa '96, the books and records, including the bank records for those organizations, the personal financial records of Mr. Hoffa, and the campaign travel records from Fox Hills Travel, Inc., the travel agency used by the campaign.

Contrary to the allegation, the Election Officer found that during the final four months of the campaign, the Hoffa Campaign spent $24,895.72 just on airline travel.[24] This amount accounts for 51 separate trips, with numerous stops. The Election Officer compared these airline travel records with Mr. Hoffa's public appearances and found them to be consistent. Moreover, the cost of this travel is accurately reported as expenditures on the CCERs filed by the Hoffa Campaign. Based upon this evidence, the Election Officer finds that the Hoffa Campaign travel was accurately reported on the CCERs.

2. Salary Payments by Joint Council 43

The investigation did not support the protester's allegation that Mr. Hoffa was paid 60 percent of his salary during the last four months of the campaign. During the last four months of the campaign, Mr. Hoffa was on a leave of absence from his employment with Joint Council 43. The Election Officer reviewed Mr. Hoffa's personal records and the records of Joint Council 43. The records reflect, and Mr. Hoffa's testimony corroborates, that Mr. Hoffa took a leave of absence from his job at the Joint Council from August 1 through December 20, 1996. Mr. Hoffa received no salary during this period. Mr. Hoffa made payments to the joint council during this period to cover his pension and health insurance.

3. Alleged Failure to Report Salaries of Hoffa Slate Campaign Workers

The protester identified Dane Passo and Kevin Currie as two individuals who had performed work for the Hoffa Slate campaigns, but who are not reported on any Hoffa Slate CCER as having received compensation for services. The Election Officer investigated this allegation by taking sworn testimony from the two individuals and from others associated with the campaigns for which they allegedly worked, and by reviewing documents reflecting payments made to the two individuals.

Based upon that investigation, the Election Officer finds that expenditures relating to Mr. Passo's work for the Hogan Campaign in Chicago were properly reported. Payments made by the O'Donnell Campaign in New York and by Hoffa '96 for Mr. Currie's services, however, were not properly reported. The payments were made to Mr. Currie's wife rather than to Mr. Currie, and were so reported. This had the effect of concealing from the IBT membership the fact that Mr. Currie, a convicted felon, was working for the Hoffa Slate. The following sections set out the specific evidence pertaining to Mr. Passo and Mr. Currie, and a remedy for the violation involving Mr. Currie.

1. Dane Passo

Dane Passo is a member of Local Union 705 in Chicago, Illinois, who is currently on disability. Mr. Passo states that in 1994 or 1995 he and several other active members in Chicago met with Mr. Hoffa about the upcoming IBT International officer election. After the meeting, Mr. Passo decided he wanted to campaign actively for Mr. Hoffa

and his then-running mate for IBT General Secretary-Treasurer, William T. Hogan, Jr. Thereafter, Mr. Passo went and spoke to Mr. Hogan about working for the election campaign in Chicago.

In 1995, Mr. Hogan opened a Hoffa/Hogan campaign office at 6811 Roosevelt Road in Berwyn, Illinois, and put Mr. Passo in charge. Although Mr. Passo was in charge of the office, he was not responsible for paying the Hogan Campaign's bills. Mr. Passo states that he gave the bills that were received at the office to Mr. Hogan. Mr. Passo describes himself as actively campaigning out of the Hoffa/Hogan office by distributing leaflets and reprints of news articles, selling paraphernalia, and organizing fundraising events. Mr. Passo states that Bobby Hogan, Mr. Hogan's son, ordered all of the paraphernalia that was sold in the Chicago area.[35] Mr. Passo also attended the IBT Convention in Philadelphia, Pennsylvania, in July 1996 and acted as an observer for the Hoffa Slate at the ballot count.

Mr. Passo set up a volunteer phone bank at the Hoffa/Hogan campaign office with approximately 24 lines. He recruited volunteers for the phone bank and ran it at night for approximately the last month of the initial election campaign.

Mr. Passo credibly testified that he worked full-time for the Hogan Campaign as an unpaid volunteer. He did not receive any wages or other compensation for his work. Mr. Hoffa, Mr. Hogan, and Mr. Pazzi corroborated Mr. Passo's testimony and provided detailed, consistent descriptions of how Mr. Passo lived and worked without compensation during the campaign. Mr. Passo stated that his travel expenses (relating to the convention and the ballot count) were paid by the Hogan Campaign and the audit confirmed these expense payments. Neither the campaign nor the local union audits revealed any payments to Mr. Passo, other than for the legitimate expenses set forth above.

2. Kevin Currie

Kevin Currie states that he became involved with the Hoffa Campaign through a contact with Richard Leebove in early 1994. Throughout 1994 and 1995, Mr. Currie states that he communicated with Mr. Leebove on the telephone and through electronic mail.[36] In 1996, Mr. Currie spoke to the Hoffa Campaign about a job. Tom O'Donnell, a candidate for Eastern Region International Vice President from New York, said that the national Hoffa Campaign requested him to establish an office in New York City. Mr. O'Donnell stated that the Hoffa Campaign directed him to hire Mr. Currie to staff the office, although he did not remember who gave him that instruction. Mr. Currie was described to Mr. O'Donnell as a Teamster who works for Yellow Freight. From the time of hiring, in March 1996,

Mr. Currie worked full time running the New York campaign office for the Hoffa Slate and O'Donnell campaigns. The O'Donnell Campaign was to pay for Mr. Currie's services.

Mr. Currie has previously been convicted of a Class E felony for grand larceny. Mr. O'Donnell states that when he interviewed Mr. Currie, he asked whether he had been convicted of any crimes. Mr. Currie denied any convictions. Mr. O'Donnell checked, however, and learned of Mr. Currie's felony conviction. Mr. O'Donnell did not want to have his records reflect that a person with a felony conviction was on his paid campaign staff. Accordingly, he paid Mr. Currie's weekly $700 base salary by issuing checks to Mr. Currie's wife, Mary Anne Currie. Mr. O'Donnell followed this practice from March 1996 through October 1996. His campaign's CCERs report payments totaling $12,684.75 to Mrs. Currie. He admits, however, that these payments were made on account of work performed by Mr. Currie, and that no part of that salary was for any work that may have been performed by Mary Anne Currie.

In or about October 1996, Mr. O'Donnell advised Mr. Pazzi that he would no longer pay Mr. Currie's salary. At that point, the Hoffa Campaign picked up the salary payments. Rather than pay Mr. Currie directly, Hoffa '96 continued paying Mary Anne Currie the salary earned by her husband's work. The Hoffa '96 CCERs report payments of $7,500 to Mary Anne Currie, not to Mr. Currie. Mrs. Currie received payments totaling $20,184.75 from the two campaigns.

The *Rules* require each CCER to be signed by a member or slate treasurer under a verification stating that the signatory has

> examined [the CCER] and to the best of [the signatory's] knowledge and belief [the CCER] is a true, correct 1) and complete report as required by Article XII of the *Rules for the 1995-1996 IBT International Union Delegate and Officer Election*, and 2) is in conformity with the "Advisory on Campaign Contributions and Disclosure."

The Hoffa '96 CCERs for the periods August 21 1996, through December 20, 1996, reporting Mary Anne Currie as a paid consultant were signed by James P. Hoffa. The O'Donnell Campaign CCERs for the periods January 21, 1996, through November 20, 1996, making a similar report were signed by Thomas R. O'Donnell. Each of these CCERs was false and known to be false by Mr. O'Donnell and by the Hoffa Campaign. This was not only fraudulent reporting to the Election Office, but was also designed to, and did, mislead other campaigns which reviewed the CCERs as to the true nature of the expenditures.

In this case, the O'Donnell Campaign and Hoffa '96 could properly have hired and paid Mr. Currie. There is no evidence that Mr. Currie provided some vehicle for improper contributions. There is evidence that Mr. Currie

actually did work for the $700 weekly salary. Thus, while the reporting violation is serious in itself, it did not operate to conceal a substantive *Rules* violation. Accordingly, the Election Officer concludes that the appropriate remedy is a penalty measured by the amount of the falsely-reported expenditures. The Election Officer directs the Hoffa Campaign and the Campaign of Tom O'Donnell to pay $20,184.75, an amount equal to the falsely-reported salary of Mr. Currie, to the Election Office. The money will be applied to the costs of conducting the rerun election. Within five (5) days of the date of this decision, the Hoffa Campaign shall pay $7,500 to the Election Office and the O'Donnell Campaign shall pay $12,684.75 to the Election Office.

4. Alleged Failure to Report Payments by Campaign Vendors

The protester identified Richard Leebove, George Geller, Esq., Bradley Raymond, Esq., and Gary Kushner as four professionals whose compensation as reported on CCERs is allegedly not commensurate with the extensive work that each person allegedly performed for the Hoffa Slate campaigns.

The Election Officer interviewed numerous witnesses with knowledge of the Hoffa Slate Campaign's operations to gather facts about the work performed by these individuals. The Election Officer personally examined Mr. Hoffa, Mr. Pazzi, and Mr. Leebove under oath. Slate members and third-party vendors were questioned for information about their interactions with the individuals in question. The Election Officer reviewed the financial records of Mr. Leebove, and of Mr. Leebove's company, RL Communications, Inc. Telephone records and banking records pertaining to Mr. Leebove were subpoenaed from third parties. Records of George Geller were also audited by the Election Officer.

The Election Officer finds that Mr. Leebove improperly contributed at least $176,650 in free services to Hoffa '96. It cannot be disputed that Mr. Leebove is an employer, and that this contribution of services violates the *Rules*. Witness after witness provided evidence to support the conclusion that Mr. Leebove and his employee, Phil Turner, worked continuously, extensively and visibly on the Hoffa Campaign during 1994, 1995, and 1996. This evidence established that:

- Mr. Leebove functioned as the principal press spokesman for the Hoffa Campaign throughout the campaign;
- Mr. Leebove wrote and reviewed campaign literature, such as the Hoffagram press releases and the "battle page" inserts for the *Teamster* magazine;
- Mr. Leebove worked on stating the Hoffa Campaign's "message" to the electorate, and he spoke to meetings of the Hoffa Slate on delivering the campaign's "message;"
- Mr. Leebove's telephone records in 1995 and 1996 reflect substantial cellular and hard line telephone usage for Hoffa Campaign-related purposes when he claimed that his company's total time on the company account averaged not more than six hours per month during 1995, and less than 23 hours per month in 1996;
- Mr. Leebove contributed the use of office equipment to the Hoffa Campaign;

- Mr. Leebove wrote election protests for the Hoffa Campaign and participated in protest adjudications by providing information to investigators and acting as an advocate; and

- Mr. Leebove worked virtually full-time for the campaign at the critical events of the IBT International convention and the ballot count.

For all of this intensive work by Mr. Leebove and Mr. Turner over three years, Mr. Leebove billed Hoffa '96 $17,650 for the services. This amount does not reflect the true amount of work done and is based on a rate that Mr. Leebove did not use with comparable clients. An appropriate remedy for this violation of the ***Rules*** is set forth at the end of the detailed analysis.

The Election Officer's investigation and audit of Mr. Geller found no evidence of a ***Rules*** violation. The allegations involving Mr. Raymond and Mr. Kushner, even if true, are not substantial. Accordingly, the Election Officer declines to find any ***Rules*** violation arising from that alleged reporting failures concerning Mr. Geller, Mr. Raymond, and Mr. Kushner.

1. Richard Leebove

1. Mr. Leebove and RL Communications

Richard Leebove owns RL Communications ("RL"). RL primarily does public relations and media work for local unions.[27] Mr. Leebove has done this work personally for many years. He founded RL, which is based in Southfield, Michigan, in 1983. Mr. Leebove's clients are primarily Teamster subordinate bodies, including Local Unions 337, 247, 243, 2000 (up to 1996), 41, 743 (starting in 1996), and the Michigan Conference of Teamsters Welfare Fund. Mr. Leebove has also worked intermittently for IBT Joint Council 43. Mr. Leebove's main work for the unions is to write and publish newsletters distributed to the membership. Invoices reviewed in this investigation show that Mr. Leebove's bills cover both his services and disbursements for costs of printing the newsletters.

Local Union 337, whose principal officer is Lawrence Brennan, is RL's largest client. That union paid RL $6,800 per month in 1994 and 1995, and $6,650 per month in 1996.[28] Mr. Brennan is also the principal officer of Joint Council 43, where Mr. Hoffa works as his administrative assistant.

RL's gross receipts were $283,339 in 1994; $268,715 in 1995; and $297,948 in 1996. Mr. Leebove and his company have receipts from services other than IBT entities. For example, in 1996 Mr. Leebove received at least $18,500 from agents of American Income Life Insurance Company, Event Management Services and Claremount Printing.

2. Role in the Hoffa Campaign

The evidence shows that, when Mr. Hoffa began to promote himself as a candidate in early 1995, Mr. Leebove was a moving force in Mr. Hoffa's inner-circle. Testimony of numerous witnesses shows that from the start of Mr. Hoffa's campaign, Mr. Leebove participated in virtually every activity of the national campaign. Slate member testimony, and Mr. Leebove's telephone records show that he frequently conversed with and advised candidates. Published media reports and witness testimony show that Mr. Leebove acted as the campaign spokesman, consulting closely on Mr. Hoffa's message and media placement. Witnesses describe how Mr. Leebove reviewed draft CCERs; produced literature and flyers for the campaign; consulted and assisted in the production of the campaign literature that appeared in the *Teamster* magazine; attended slate meetings; and permitted the campaign to use his office equipment without charge.

For all of this work by both Mr. Leebove and his employee, Phillip Turner, Mr. Leebove only billed the campaign $17,650 over a three year period.[29] As reported in the CCERs, and as reflected in Mr. Leebove's records, the Hoffa Campaign paid RL $600 in 1994, $3,600 in 1995 and $13,450 in 1996.[30] The 1996 payments include a $1,000 flat fee for Mr. Leebove's services to the Hoffa Slate during the week of the IBT Convention in Philadelphia. RL's invoices include the services of Mr. Leebove and Mr. Turner.

The investigation sought from Mr. Leebove an explanation of the work performed for the Hoffa Campaign and the basis of the charges. No adequate explanation was provided as Mr. Leebove has neither contemporaneous records of work nor a fixed method of determining charges. Mr. Leebove purportedly does not have a regular billing rate. He billed the Hoffa Campaign at a rate of $50 per hour for work performed through RL. The $50 per hour rate purportedly applied to the work of Mr. Leebove and Mr. Turner. At this rate, the $17,650 paid by Hoffa '96 for RL's time works out to a total of 12 hours (less than 15 minutes per week) in 1994; 72 hours (less than 1.5 hours per week) in 1995; and 269 hours (slightly more than five hours per week) in 1996 for Mr. Leebove and Mr. Turner combined. Additionally, Mr. Leebove did not pass along many expenses, including telephone, use of equipment and some travel expenses The Election Officer finds the number of hours worked are grossly understated.

Mr. Leebove and Mr. Turner both admitted that they never kept track of the hours they worked. Mr. Leebove kept no telephone logs, calendar or other written record of the work he performed for the Hoffa Campaign. As far as billing, Mr. Leebove stated under oath that,

> It was kind of a retainer type arrangement [with the Hoffa Campaign] saying that I would bill you at fifty dollars an hour based upon the amount of time I believed I was putting in, maybe six hours, I think that's what I was billing him, six hours a month. I think that's what I was billing him, six hours a month. And I would kind of bill him at a block of time so I would kind of reassess at the end of three or four months to see was that an accurate assessment of the time I was putting in.

While Mr. Leebove testified to this purported hours-based billing, Messrs. Hoffa and Pazzi testified that they had no idea whether Mr. Leebove was billing them at an hourly rate. They only knew that they would receive periodic gross bills from RL which provided no detail on what work had actually been performed for the campaign. Mr. Pazzi stated that he would examine the bills only to determine whether the amount "seemed reasonable."

As the campaign manager, Mr. Pazzi had frequent contact with Mr. Leebove. When asked to estimate, based on his knowledge of the campaign, how much time Mr. Leebove was spending on the campaign, Mr. Pazzi estimated that Mr. Leebove worked 12 hours a month in 1995 and Mr. Turner worked somewhat less. Although the Election

Officer believes this estimate still grossly understates Mr. Leebove's time, it amounts to double the time that Mr. Leebove worked if his invoices are analyzed using the $50 per hour rate. Because there are no records, and because the Election Officer finds that Mr. Leebove's testimony about his own work and his billings was evasive, incredible and false, the Election Officer must rely upon testimony, documents and other information from third parties to determine what work Mr. Leebove performed.

The investigation gathered evidence from witnesses who saw the work Mr. Leebove did and from public record sources that reflected his work. This evidence shows Mr. Leebove's constant activity on behalf of Mr. Hoffa's campaign. During the initial election, Mr. Leebove functioned consistently as the spokesman for Hoffa or the spokesman for the Hoffa Campaign, and the press nationwide regularly identified him in that role.[31] Witnesses with knowledge of the Hoffa Campaign operation also knew him as the chief spokesman. For example, Mr. Schroth states that "Leebove was the spokesman for the campaign;" Mr. Hogan refers to Mr. Leebove as doing public relations for the campaign; Mr. Lyle states that Mr. Leebove "consulted on message;" and Mr. Flynn identifies Mr. Leebove as the person responsible for press releases. Mr. Schroth states that he spoke to Mr. Leebove at least ten times on the telephone about media issues. On these occasions, Mr. Leebove would question Mr. Schroth about what subjects Mr. Hoffa should stress during the radio interviews that he was doing around the country. Mr. Schroth recalls that the bulk of these conversations were in the early spring of 1996. It appears from documents that Mr. Leebove consulted with Event Management Services, a media relations firm hired by the Hoffa Campaign (through Mr. Leebove) about where Mr. Hoffa should be placed on radio and television, and what message points the candidate should make.[32]

Witnesses testified to Mr. Leebove's direct participation in and oversight of Hoffa Campaign press releases and other literature. Mr. Leebove reviewed all Hoffagram press releases and drafted some of them; Mr. Turner formatted the Hoffagrams for release on his computer at RL. Pat Plummer, whose Election Office job was to coordinate campaign literature for the *Teamster* magazine, had telephone conversations with Mr. Leebove about the Hoffa Slate literature in the magazine. Mr. Pazzi admitted that Mr. Leebove "was more active before magazine copy was due." Carlo Scalf, a member of Local Union 337 and a key campaign volunteer in Detroit, stated under oath that Mr. Leebove was the idea person for the campaign literature and the "brains of the [Hoffa] operation." Robert Barnes, another member of Local Union 337 stated that Mr. Leebove acted as the "poison pen" for the campaign. While Mr. Barnes

was not as active in the campaign as Mr. Scalf, he also said that he could see Mr. Leebove's hand in the literature that came out of the Hoffa Campaign.[83]

When Mr. Pazzi joined the Hoffa Slate in June 1995, the campaign operation shared space in RL's offices. During that period, the campaign utilized RL equipment, including the printer, computers, photocopier and facsimile machine, without charge. RL never billed the campaign for the use of this equipment, which occurred for at least seven months in 1995.

Mr. Leebove traveled with Mr. Hoffa and Mr. Pazzi to at least three slate meetings, in Chicago in December 1995 and March 3, 1996, and a later 1996 slate meeting in Dallas, Texas. At the March 3, 1996 meeting, Mr. Leebove made a presentation to the participants on the "message" of the Hoffa Campaign. Mr. Leebove's participation was confirmed by Mr. Schroth, and by several of the slate members who attended. In addition, Mr. Leebove traveled to San Antonio, Texas, on behalf of the Campaign.

Mr. Leebove and Mr. Turner traveled to the convention to work for Hoffa Campaign. They were in Philadelphia for approximately one week. Hoffa '96 paid the lodging and travel expenses for Leebove and Turner, and RL received a flat fee of $1,000 from Hoffa '96 for its week of work. Messrs. Leebove and Hoffa state that this is a reasonable fee because RL did minimal work for the campaign at the convention. Mr. Leebove argues that he was mainly at the convention on behalf of Local Unions 337, 243, 247, 41, and 743 (for whom he produces monthly publications) because he needed to produce reports on the convention.

While there is no question that it would have been legitimate for RL to do work for local unions at the convention, the Election Officer finds that Mr. Leebove gave a false account of the work he did for the Hoffa Campaign at the convention and that his explanation of the fee arrangement is not credible. First, none of Mr. Leebove's local union clients paid any portion of Messrs. Leebove's or Turner's expenses for the convention. Indeed, none of Mr. Leebove's local union clients for whom he purportedly did special work at the convention paid him any extra fee for that service. Second, Mr. Leebove severely understated the amount of work that he did for the Hoffa Campaign at the convention, and the amount of time spent on that work. Mr. Leebove and Mr. Turner state that the only task they performed for the campaign at the convention was to produce a nightly campaign newsletter for delegates that outlined the previous day's proceedings with a Hoffa Campaign "spin." The Election Officer rejects that testimony.

Witness statements gathered in this investigation and contemporaneous press accounts of the IBT International convention show Mr. Leebove's visible, ubiquitous presence as the key Hoffa Slate spokesman. Mr. Schroth, the Hoffa Slate pollster who attended the convention, states that RL had a desk and a telephone in the Hoffa Slate's convention office. Mr. Schroth told the Election Officer that in addition to getting out the newsletter during the convention, Mr. Leebove worked on press relations with Mr. Pazzi "to head off on a daily basis what they perceived as bullying by Carey." Contemporaneous news reports state that Mr. Leebove addressed the daily delegate rallies for Hoffa at the convention. For example, an article by William Bastone in *The Village Voice* reports the following:

> After Hoffa backers booed during U.S. Senator Arlen Specter's convention speech Monday -- which caused Carey to temporarily suspend proceedings -- Leebove was unapologetic. Addressing the delegates during the break, Leebove yelled through a bullhorn, "Who was that Republican son of a bitch, anyway?" He then dismissed Specter, a Warren Commission staffer, as "the guy who came up with the single bullet theory!" Earlier, when a delegate asked how Hoffa backers could get Carey to move the agenda more quickly, Leebove responded, "Where are the Uzis?"

The article further reports how Mr. Leebove responded to questions about the use of walkie-talkies by Hoffa floor whips. "Brothers 'n' the Hood: Tales from the Teamsters 25th Convention," *The Village Voice* (July 30, 1996).

Although Mr. Leebove performed these many tasks for the Hoffa Campaign at the convention, he was paid significantly less than other media and message advisors who accompanied the Hoffa Campaign to the convention. For example, Delacorte/Shinoff, a public relations firm that worked on message at the convention, was paid over $8,000 for pre-convention and convention work.[34] To explain the differences in payment, Mr. Pazzi states that

Delacorte/Shinoff did "quite a bit of work" prior to the convention and they were occupied "all day, every day" at the convention. Even assuming this account is accurate, it does not explain a payment eight times larger given Mr. Leebove's daily role in Hoffa Campaign activities. As a further comparison, Hoffa '96 paid Delacorte/Shinoff almost twice as much for convention-related work as they paid RL for work in 1994 and 1995 combined. The records of the campaign of Chuck Mack, a candidate for International Vice President on the Hoffa Slate, indicate that for a single day's work, Delacorte/Shinoff charged his campaign $500. Yet, RL charged the Hoffa Campaign $17,650 for services for three years of work that included (in 1996) an extensive press relations operation.

Mr. Leebove also spent one other large, verifiable block of time working for the Hoffa Slate. He came to Washington, D.C., for the week in December 1996 when the ballots in the initial election were counted. He appeared at the count site during Election Officer press conferences, and participated in daily press briefings. He was not reimbursed for his week-long hotel stay.

Regarding election protest activity, while Mr. Leebove was secondary to Mr. Hoffa and Hoffa counsel Bradley T. Raymond, Esq., Mr. Leebove participated in campaign protests filed with the Election Office. Mr. Hoffa at first minimized Mr. Leebove's work on protests. While Mr. Hoffa first claimed that he had personally "tapped out some protests I wanted to file," he acknowledged in his testimony that Mr. Leebove authored some of his protests. Regional Coordinator Bruce Boyens recalls discussing several protests from the initial election with Mr. Leebove. He states that when he would contact Mr. Hoffa concerning a protest, Mr. Hoffa would refer him to Mr. Leebove for information. Regional Coordinator and Candidate Liaison Peter V.

Marks recalls a lengthy telephone conversation with Mr. Leebove shortly before the convention. He also recalls Mr. Leebove's attendance at a meeting on the proposed election rules in December 1994.

3. Telephone Billing Records

As stated previously, Mr. Leebove could not provide any contemporaneous documents which recorded Mr. Leebove's or Mr. Turner's work on the Hoffa Campaign. The only other source of time records the Election Officer found that constitutes some evidence of the time actually worked are telephone company billing records. Accordingly, the Election Officer subpoenaed all of the telephone billing records for RL and Richard Leebove personally.[35] We were able to obtain all of the records for Mr. Leebove's cellular phone for 1995 and 1996. It appears that the hard line billing records of the regional telephone company were destroyed in the ordinary course of business after nine months and, as of the date of this decision, only scattered records back to April of 1996 were obtained. An analysis of the available records indicates extensive use of the cellular telephone for campaign-related activity.

Mr. Leebove used his corporate cellular phone for 46,857 minutes during 1995 and 1996. Thousands of minutes of the calls were for Hoffa Campaign purposes. For instance, he spent 609 minutes (more than 10 hours) talking to Mr. Hoffa's cellular number or home number, 100 minutes in 1995, and 509 in 1996. In 1995, he spent 292 minutes (almost 5 hours) speaking with the Hoffa headquarters and 727 minutes (more than 12 hours) speaking with them in 1996. The Election Officer also found thousands of minutes spent on the phone with slate candidates, Hoffa consultants, the national press, and Hoffa attorneys.

For example, Mr. Leebove consulted regularly with many of the candidates on the Hoffa Slate. His 1996 cellular telephone records show hours of calls to campaign-related telephone numbers including those of Mr. O'Donnell, Richard Volpe, Gene Giacumbo,[36] C. Sam Theodus and Robert Walston, Chester Glanton's campaign manager.[37] The records reveal calls to union bodies that actively supported Mr. Hoffa, but were not clients of RL such as Joint Council 25 and Local Union 391. The bills show calls to active volunteers like Kevin Currie, Dane Passo, Jerry Halberg and Timothy Dunn.

The 1995 and 1996 cellular telephone records corroborate Mr. Leebove's involvement in protest activity. Those records show calls to the Election Office, Regional Coordinators Bruce Boyens and William Wertheimer, and to Election Appeals Master Kenneth Conboy's office. They also indicate over 67 hours of telephone calls to Baptiste &

Wilder,[38] and Finkel, Whitehead, Selik, Raymond, Ferrara and Feldman.[39] Mr. Leebove also occasionally telephoned the Election Office to follow up on the compliance with a protest decision.

Mr. Leebove's 1996 cellular telephone records show calls to the telephone numbers of the *Washington Times*, *New York Daily News*, American Broadcasting Company, *Fortune* magazine, *Dateline NBC*, the *New York Times*, and the *Columbia Journalism Review*. While Mr. Leebove explains these contacts as part of his work for Mr. Brennan and Local Union 337, that is simply not credible. The IBT news story of national interest which Mr. Leebove touted to the press involved Mr. Hoffa and the Hoffa Slate Campaigns. The Election Officer finds that Mr. Leebove's calls to these national media organizations reflect work for the Hoffa Campaign and show Mr. Leebove's important position in that campaign. Significantly, these calls appear on Mr. Leebove's cellular telephone records and were made, presumably, when Mr. Leebove was away from his office telephone and had an urgent need to reach these media outlets.

The Election Officer found a total of at least 7,090 minutes (more than 118 hours) that were most probably related to the Hoffa Campaign.[40] This breaks down to 2,868 hours of Hoffa-related cellular phone calls in 1995 and 4,222 in 1996. This represents 15.1 percent of the total cellular phone time. The cost to Mr. Leebove was approximately $1,000 in 1995 and $1,400 in 1996.[41]

Additionally, a review of the few hard line records available shows that Mr. Leebove spent at least 2,845 minutes on Hoffa-related phone calls in the last eight months of the campaign.[42] The cost of this telephone usage is about $409.

In sum, the Election Officer found that Mr. Leebove spent 47.8 hours on his cellular phone on Hoffa Campaign business in 1995, an average of 3.98 hours a month. This is only 2 hours a month less than Mr. Leebove billed for all of his Hoffa Campaign work in 1995.[43] The Election Officer finds that Mr. Leebove spent at least 117 hours on the phone for the Hoffa Campaign in 1996, or 9.8 hours per month. This represents more than 43 percent of the hours that Mr. Leebove

billed for 1996, and does not include the week he spent at the convention, the week he spent at the count site, the other trips he took or any other work he did or expenses.[44]

The Election officer finds that an analysis of available telephone records for 1995 and 1996 clearly indicate a massive under-reporting of the work of Mr. Leebove and RL for the Hoffa Campaign.

4. Campaigning While Purportedly Engaged in Business for Union Clients

The Election Officer also finds that Mr. Leebove often engaged in campaigning when he was purportedly doing legitimate business for local union clients and for which local unions paid him. Regarding this issue Mr. Leebove offered the following testimony:

Mr. Leebove: Talking about Ron Carey on issues relating to the union, issues affecting the union, whether it was the financial condition of the union or corruption issues facing Ron Carey, whatever, might have been issues related to things that Larry Brennan wanted me to raise.

There was in 1995 Larry Brennan organized a congressional breakfast or lunch in Washington to request congressional oversight into the Independent Review Board. There was all kinds of activity related to that and the financial condition of the union and so on that was unrelated to the Hoffa Campaign that might have been – that was legitimate union business that I was doing for either Brennan or perhaps another account.

Questions about Hoffa were specifically related to the campaign. [Emphasis added.] Either I would talk to them or refer them to Tom or Jim. I mean Jim himself handled – you know, Jim spoke quite a bit to the press himself I mean.

Election Officer Cherkasky: I think you know that part of the allegation is in fact that Larry Brennan by paying you what 337 paid you was in fact paying for the activity you did for Hoffa. Where did you draw this line?

Mr. Leebove: Well, I drew the line on what was issues coming out from the Election Office, decisions about what was legitimate union business. I mean, as you know, the Election Office was allowing all kinds of articles critical of the old guard, or in the pejorative term, or anybody who was opposing Ron Carey was considered corrupt or was opposed to reform or whatever. Those were considered legitimate internal union matters.

Election Officer Cherkasky: Yeah.

Mr. Leebove: And they were fair comments for the union to make both from the international side and from the local union side. Matters that crossed over that line into issues about candidates or positions on the candidates, those were ones where I would consider that to be something for the Hoffa Campaign. [Emphasis added.]

Later in the transcript, Mr. Leebove again states his understanding of the distinction between union business and campaigning:

Mr. Leebove: The IRB trusted Bill Hogan's local, Tom's Local 107, and they also trusteed T.C. Stone's local and there were issues related to those trusteeships that had to do with the government oversight of the union and the unfairness of the government's involvement. And there might have been times I would speak to reporters unrelated to the campaign but about the issue of the IRB and the government and how fairness of the system was being run separate from the campaign.

The public record shows that Mr. Leebove did not practice according to the distinctions he drew in his sworn testimony. Commentary on the "union business" of trusteeships provided a ready platform for campaigning and pushing Mr. Hoffa's Campaign and election agenda. For example, in an article in *The Hollywood Reporter* on August 14, 1996 about the trusteeship of Local Union 714 in Chicago the story attributes the following comment to Mr. Leebove:[45]

> "This move," said Richard Leebove, a spokesman for the Hoffa Campaign, "is a blow to the movie industry in Chicago, and is an attempt by Carey to undermine the democratic Teamster elections this November. Bill Hogan stands out for what he has done for his members, and for the thousands of movie jobs he has brought to the Chicago area. All this is being ignored to further Carey's failing political career."

In an article in the *Telegraph Herald* dated August 21, 1996, which reports on a court order overturning an emergency trusteeship in Local Union 107, the following statement was attributed to Mr. Leebove:[46]

> "We think this is a major victory and a repudiation of Ron Carey in his attempts to play politics to stifle dissent and attack his opponents," said Hoffa spokesman Richard Leebove.

In an article in *The Dallas Morning News* reporting on the trusteeship of Local Union 745 in Dallas, Texas, the following is attributed to Mr. Leebove:[47]

> A spokesman for the Hoffa Campaign echoed Mr. Stone's charge that the trusteeships are part of a concerted campaign by Mr. Carey to weed out Mr. Hoffa's support.
>
> "We don't want the mob to run the union," said Richard Leebove, "but we don't want the government running it either."

Finally, in an article which appeared in the *Boston Herald* on November 8, 1996, Mr. Leebove makes the following comments:

> Hoffa spokesman Richard Leebove said Carey was disingenuously using the corruption issue to deflect attention from his own failures.
> "The No. 1 issue is that he failed at the task he was given by members who elected him in 1991," said Leebove.

"He's failed to unify the union; he's failed to administer the finances properly; and he's failed to negotiate better and stronger contracts."

The content of these comments does not violate the *Rules*. What the comments show, however, is campaign activity conducted by Mr. Leebove on behalf of Mr. Hoffa. Mr. Leebove made these statements not for a union client on union business but for the Hoffa Slate on campaign business. The services provided as campaign spokesman must be paid for at fair value, by the campaign. They cannot be contributed to Mr. Hoffa by RL or Mr. Leebove, or attributed to other union clients.

5. Mr. Leebove and American Income Life Insurance

The Election Officer has found circumstantial proof that strongly suggests that Mr. Leebove was receiving payments from agents of American Income Life Insurance Company ("AILI") to subsidize his work on the Hoffa Campaign.

In late 1996, the Election Officer received an allegation that representatives of the AILI improperly obtained mailing lists of IBT local unions in exchange for donating money to the Hoffa Campaign. AILI sells insurance products to union members and its agents would allegedly use membership lists to contact IBT members directly to sell its insurance programs.

The Election Officer investigated this allegation by taking statements and sworn testimony from over a dozen AILI agents and representatives allegedly involved in the scheme and from others who may have had knowledge of the scheme. Sworn statements were taken of witnesses with knowledge of AILI's operations including AILI chief executive officer Bernard Rapoport. The FBI provided the Election Officer with information obtained from more than 20 witness interviews pertinent to the allegations.[48] In the course of the investigation the Election Officer explored in detail the strategies and procedures AILI uses to sell insurance, AILI's productivity tracking systems, and AILI's basis for compensating its agents and representatives. The Election Officer found no evidence that AILI had purchased IBT membership lists. The investigation did find that AILI agencies paid money to Mr. Leebove in exchange for Mr. Leebove's facilitation of meetings between AILI agencies and IBT local unions. Mr. Leebove received $18,500 directly from three AILI agencies between October 29 and November 7, 1996. Laurence Sherman, an AILI

representative in Detroit, who is a close personal friend of Mr. Leebove, received $5,000 in that same period from two AILI agencies purportedly on account of services to be rendered by Mr. Leebove.

While these transactions on the surface appear proper, there is some evidence that these payments arose from pressure that Mr. Leebove exerted on AILI to support the Hoffa Campaign. It is highly probable that, at a time when Mr. Leebove was under-charging the Hoffa Campaign, he turned to AILI to generate income for which he had to do almost no work.

Mr. Leebove's actions with respect to AILI must be put in the context of the IBT 1996 International officer election. In September 1996, Jules Pagano, an AILI Vice President who works in Washington, D.C., was a sponsor for a fundraiser for candidate Ron Carey. Mr. Pagano testified that in October 1996 he received a telephone call from Mr. Leebove about the fundraiser. According to Mr. Pagano, Mr. Leebove threatened him with the loss of his job, and further promised that if Mr. Hoffa won the election AILI's ability to do business with the IBT membership would suffer.[69] AILI's President (Mr. Pagano's boss) testified that Mr. Leebove also called him and told him about the Pagano incident. Mr. Leebove made clear in that conversation that he was angry with Mr. Pagano's having apparently shown support to one side in the IBT International officer election. A review of AILI telephone logs found a record dated October 23, 1996 that reflects a call from Mr. Leebove to AILI's president. The record consists of Mr. Leebove's name, his telephone number, and the statement "very important."

The $18,500 in payments to Mr. Leebove from AILI agencies, in Indiana, Washington State and Ontario, Canada, and the $5,000 in payments to Mr. Sherman from AILI agencies in Chicago and New Jersey were made in the following three weeks. Sworn testimony from individuals who worked at two different AILI agencies at the time of these payments stated that it was understood that these payments to Mr. Leebove and to Mr. Sherman were intended in some way to provide support for the Hoffa Campaign. Another witness interviewed by the FBI stated that Mr. Sherman telephoned the AILI Chicago agency in late October 1996 to request a $2,000 check. The witness stated that Mr. Sherman said the check, although showing Mr. Sherman as the payee, was for the Hoffa Campaign.

Mr. Leebove, Mr. Sherman and the AILI agents that made the payments have denied that this activity related to the campaign. They state that the payments were entirely for apparently legitimate work that Mr. Leebove would perform. That testimony was not credible. While there is not sufficient evidence for the Election Office to conclude that these payments were completely a sham, they are at the least highly questionable. The circumstantial proof suggests

strongly that these payments were either extracted to subsidize Mr. Leebove's work for the Hoffa Campaign (and as reparations for Mr. Pagano's having provided support for Mr. Carey), or that they reflect Mr. Leebove's trading on his campaign connection to make some fast money.

These payments have no counterpart in AILI's regular practices. AILI has established, firm procedures that its agents follow in soliciting union member business. The income of AILI agents and sales representatives is tied directly to activities that generate a measurable income-generating response, such as signing up a union for member solicitation or selling policies. These were completely outside of that regular system. When the AILI agencies paid Mr. Leebove or Mr. Sherman there was no expectation of any access to an identified group of union members to solicit for sales that could be evaluated according to AILI's usual measures of success or return. Although witnesses tried to explain the payments as advances against a type of expected future commission that would be paid to Mr. Leebove or Mr. Sherman, only one of the agencies actually tracked its payment in that way. Until they were questioned by the Election Officer, other agencies that had made these payments claimed that they had forgotten to account for what was supposedly "owed" but avowed that they would now go back, calculate any debt, and pay it. By their testimony, until this investigation, the agencies had forgotten about thousands of dollars in income that was owed under these arrangements, and Mr. Leebove and Mr. Sherman had similarly forgotten to ask for that money.

Finally, payments for this type of work were not normal for Mr. Leebove. He had assisted individuals at AILI's Detroit agency for eight years, and put them in contact with nearly 20 IBT locals to sell insurance. He never took any compensation for that work. Despite his years of success for the AILI's Detroit agency, he had never before sold this service to any AILI agency. The first and only time that he sought and received money for introductions to IBT locals was in late October and early November 1996. The Election Office believes it is more than a coincidence that he sought this income on the eve of balloting in the IBT 1996 International officer election, after a high official of AILI had voiced support for Mr. Carey, and at a time when he may have needed money because he was not charging the Hoffa Campaign fully for his services.

6. Conclusion

The Election Officer finds that RL grossly underestimated or deliberately concealed the time spent working for the Hoffa Campaign. Moreover, the Election Officer also finds that if Mr. Leebove actually based RL's charges on a rate of $50 per hour, that purported rate is not reasonable by his own standards. Mr. Leebove admits that he charges

Local Union 337 a rate of $100 per hour for his services. He does not explain why the Hoffa Campaign is purportedly charged half of that rate. When compared to other vendors of similar services to the campaign, Mr. Leebove's rates are inexplicably low. For example, as stated above, Mr. Leebove charged less than half of the rate that other vendors charged for similar work at the IBT International convention.

Article XII, Sections 1(a) and 1(b)(1) of the *Rules* prohibit an employer from making any campaign contributions to the campaign of a candidate for International office. The *Rules* broadly define campaign contributions to include "any direct or indirect contributions of money or other thing of value where the purpose, object or foreseeable effect of that contribution is to influence the election of a candidate." Definitions, *5*.

Mr. Leebove provided public relations services to the Hoffa Campaign in 1994, 1995, and 1996 for which he did not charge a reasonable rate. Performing the service of spokesman for Mr. Hoffa and the campaign, Mr. Leebove was not functioning as a journalist, or as a private citizen expressing his opinion. Mr. Leebove could not lawfully perform that campaign work under cover of his assignments for union clients paid for by union funds. He was, quite simply, a professional spokesman for the Hoffa Slate.[50] That campaign activity, performed without full compensation, constitutes a prohibited contribution to the campaign from an employer.

Based on the above, the Election Officer finds that Mr. Leebove underestimated his time and far charged less than the commercially reasonable rate to the Hoffa Campaign for his services. The Election Officer finds it difficult to quantify the amount of the violation because Mr. Leebove kept no records and the full and precise extent of RL's work for the Hoffa Campaign cannot be determined. The Election Officer estimates from the evidence that Mr. Leebove did at least five times more work than his "hourly" bills reflect. Using this factor, the Election Officer estimates RL provided services to the Campaign at the rate of less than one day per month in 1994, less than one week per month in 1995 and about three weeks per month in 1996. Since the Election Officer also believes he discounted his rate, he finds a reasonable rate for the services of RL (which include Mr. Leebove and Mr. Turner) is $100 per hour. Therefore, the Election Officer finds that RL should have charged the campaign $176,500 over the three years for his services. In addition, because Mr. Leebove did not charge expenses to the campaign (actual costs of telephones, copiers, computers), the Election Officer finds a five percent disbursement charge should be added to the amount for services. That amount is offset by the $17,650 the campaign paid RL for its services. Thus, the Election Officer finds that RL improperly contributed $167,675 to the Hoffa Campaign.

Through the above findings, the Election Officer finds that Mr. Leebove, as the principal of RL, knowingly and willfully contributed to the Hoffa Campaign through the improper use of employer funds. Mr. Leebove also made knowingly false statements to the Election Officer. Mr. Leebove's conduct shows a complete and willful disregard of the *Rules* and the goals of the Consent Decree. Accordingly, all candidates, slates, and independent committees are hereby barred from contracting with Mr. Leebove, Mr. Turner or RL, or paying any of them or incurring a debt to them for any kind of services, goods, or work of any kind from the date of this decision through the date of the final certification of the 1996 IBT International officer election. During that time period, Mr. Leebove, Mr. Turner, and RL may not perform any work for or against any candidate nor may they bill or receive monies for such work performed by them or by any other entity.[51]

In addition, the Election Officer hereby imposes a fine of $16,767 on the Hoffa Campaign, to be paid to the Office of the Election Officer within five (5) days of the date of this decision. This sum is ten percent of the estimated value of Mr. Leebove's improper contribution to the Hoffa Campaign. It would be inappropriate to order payment for the donated services, as that would simply reward Mr. Leebove's misconduct, and the campaign's improper acceptance of the contribution. It is similarly inappropriate to impose a large fine. The Election Officer could not find evidence that traced union funds being used to support Mr. Leebove's under-compensated work for the Hoffa Campaign or evidence of the campaign's direct complicity in arranging alternative funding to support Mr. Leebove. Still, the leaders of the Hoffa Campaign knew the large amount of work performed by Mr. Leebove, and should have known his fees were unreasonably low. The strict liability provision of the *Rules* requires a remedy against the Hoffa Campaign to encourage future vigilance against the receipt of improper contributions.

2. George Geller

George Geller is an attorney based in Detroit, Michigan. He has no employees. Mr. Geller has in the past been associated with Mr. Leebove and has been a supporter of Mr. Hoffa. Mr. Geller did not have any billings to the campaign. Mr. Geller is the attorney for Local Union 337. The protesters contend that he did legal work on behalf of the campaign which was not reported.

During the investigation, Mr. Geller records were audited. Numerous witnesses were questioned regarding Mr. Geller's involvement in the campaign. The investigation revealed that Mr. Geller never acted as counsel to the campaign and had no official role in the campaign. He was never paid by the campaign nor was his travel to the convention paid

for by the campaign. The witnesses universally refer to Mr. Geller as having no involvement in the campaign, and indeed being a "gadfly" to those active in the campaign.

Based on this evidence, the Election Officer finds the alleged disclosure validation has no merit.

3. Bradley T. Raymond and Gary Kushner

Bradley T. Raymond has been Mr. Hoffa's attorney. He has represented Mr. Hoffa numerous times in protest proceedings before the Election Officer and in appeals to the Election Appeals Master. Gary Kushner is a certified public accountant who prepared the CCERs for Mr. Hoffa.

The protesters raise the following allegation pertaining to these individuals:

> The Hoffa CCERs likewise fail to report accurate expenditures for, or contributions by, its accountants and lawyers. The Campaign's accountant--Gary Kushner, a Detroit CPA--prepared five complicated CCERs after February 5, 1996 but neither collected any fee nor reported any in-kind contribution for his work. Bradley Raymond's law firm billed the Hoffa Campaign only $65,000 in legal fees while donating another $17,000 for in-kind services. More than $50,000 of this total concerned work performed before July 30, 1996 . . .; about $32,000 covered the six-month period from August 1, 1996, through January 31, 1997. Assuming an hourly rate of $125 per hour, . . ., the Hoffa CCER reports that Mr. Raymond devoted only 250 hours to the Hoffa Campaign work -- fewer than 10 hours a week -- during the six months of legal frenzy that followed the Convention. This claim is plainly false and just as plainly calls for an explanation of Mr. Raymond's billings to the Hoffa Campaign during this period.

Carey Slate Protest, letter dated May 30, 1997, at 6.

The Election Officer declines to investigate the allegations concerning Messrs. Raymond and Kushner. In his decision directing investigation of this protest, the Election Appeals Master ordered the Election Officer to investigate those allegations that "implicate the integrity, credibility and fairness of the rerun election."

These allegations, even if found to have merit, do not rise to that serious level. Mr. Raymond's and Mr. Kushner's work for Mr. Hoffa was generally disclosed and known. Even if Hoffa '96 under-reported hours or fees, these alleged under-reported in-kind contributions would be for legal and accounting work and therefore would not be "campaign contributions."[52] Unlike the situation with Mr. Leebove, candidates may properly accept in-kind contributions from lawyers and accountants. This distinction is recognized in Supreme Court case law. United Steelworkers of America v. Sadlowski, 457 U.S. 102 (1982). Thus, even if a reporting violation were established, the most the Election Officer would require would be an amendment to the "Legal and Accounting Fund" form on the

CCERs. Given the purposes underlying this historic investigation of conduct occurring in the initial election, the Election Officer will not investigate these allegations.

E. Telephone Banking

The protester contends that the Hoffa Campaign had extensive phone bank operations and that the expected full costs do not appear on the Hoffa Slate Campaign CCERs. From this the protester infers that phone bank costs were paid with improper funds.

The Election Officer audited several of the Hoffa Slate members CCERs, and interviewed each of the candidates and volunteers in charge of the phone banks. In addition, the Election Officer in some circumstances interviewed the entity through which the phone banking was done. The investigation showed that only the campaigns of Fred Gegare, a candidate for International Vice-President-At-Large, and Jon Rabine, a candidate for Western Region International Vice-President, failed to properly report phone bank costs.

The evidence shows that as the national campaign developed the Hoffa Slate Campaigns executed a structured phone-bank program prior to the mailing of the ballots.[53] The goals of this "Phone/Mail/Phone Program," were set forth in a memo from Mr. Pazzi to all "program participants" dated October 11, 1996:

> The main objective of the phone banks is to identify which Teamster members are inclined to vote for Jim Hoffa and his slate. After doing so, we will know who to make follow-up calls to once the ballots have been mailed.
>
> Given the tendency of members to not send in their ballots, we cannot assume that just because a member is for Hoffa that he or she will necessarily mail in their ballot. As we did in the [various international delegate elections], we must drive the vote out by persistently calling identified supporters until they tell us that they have mailed in their ballot. Secondarily, the phone/mail/phone program is designed to persuade undecided members or members who are leaning Hoffa.

The "program participants" referred to in the memo were slate members and other supporters of the Hoffa Campaign with whom Mr. Pazzi had previously discussed phone bank plans.

As designed by Mr. Pazzi, the program contained several elements. Initially, all program participants were shipped a quantity of special cards, regardless of whether or not they had previously committed to conduct a phone bank. The Hoffa Campaign paid Applied Political Technologies ("APT") in Alexandria, Virginia, to produce the cards. They contained the names, the local union, and the telephone numbers of members living in geographical areas which corresponded to the locations of the program participants. APT sent the cards to the program participants and created mailing labels used for related phone bank activity.

After receiving the cards, the program participants were to organize groups of volunteer callers and arrange for centralized phone bank facilities. Not all of the program participants receiving cards conducted phone bank activities and not all phone-banking activities were conducted from centralized facilities. However, those who did participate distributed the cards to volunteers who, following a standard written script, called the members listed on the cards. The script specifically told the volunteer/caller to identify him or herself as an IBT member helping the Hoffa Slate and to inquire whether or not the targeted member intended to vote. If the answer to that question was yes, the targeted member was asked further questions and the responses were recorded on the card. Data captured in this contact was analyzed by the Hoffa Campaigns' polling firm, Schroth & Associates. That became the basis for follow-up mailings and two more rounds of telephone calls. The follow-up telephone calls were conducted based on cards generated and mailed out the same way as the initial batch.

The Election Officer checked the CCERs for possible phone-banking expenditures which corresponded to the periods that the cards were mailed and delivered. Since the program could not proceed to completion unless the first set of cards were returned to Schroth for further processing, only those program participants who received a minimum of two shipments from APT were further investigated. These program participants were interviewed as to whether phone banking had occurred on behalf of Mr. Hoffa between October 1, 1996 and December 1, 1996, where the phone-banking activities were conducted, how they were paid for, and whether or not the expenses had been reported. Documents such as the phone records of local unions, copies of checks and receipts were obtained and examined.

APT shipped 28 packages of "first set" phone bank cards throughout the United States and in Canada on or about October 9, 1996. APT's records show that a second set of cards were shipped to 17 participants during the first week of November 1996 signifying that the participant had organized at least some phone-banking activity.

The investigation did not reveal, with two exceptions, that any improper or unreported contributions were received or incurred any unreported expenses. Much of the phone banking occurred through volunteers who made calls from their homes rather than a centralized facility. In the majority of cases, no long-distance toll charges were incurred because the volunteers were given the cards listing members who lived in their respective area codes. In a small number of cases, the volunteers considered the toll charges minimal and treated them as campaign contributions under $100. Finally, the Hoffa Slate candidates spent $150,000 on phone service alone during the campaign, much of these expenditures reported at the end of the campaign. Therefore, the Election Officer infers that a large portion of these expenditures are attributable to phone banks.

The investigation discovered that two program participants arranged to conduct some phone bank activity in independent centralized facilities. Fred Gegare, a candidate for Central Region International Vice-President and Secretary-Treasurer of Local Union 75, assigned business agent and political supporter Tony Cornelius to conduct phone bank activities in the Green Bay area. Mr. Cornelius contacted the business manager of the Green Bay Labor Temple and arranged to use their facility and telephones. On November 4, 1996, Mr. Cornelius and several other campaign volunteers made approximately 25 to 30 calls for approximately two hours from the Green Bay Labor Temple. Neither the Hoffa Campaign, the campaign of Mr. Gegare or the campaigns of any other slate member paid for the use of the facility, which normally rents for union and non-union-related purposes for $25 a night. No reference to the conduct of phone-banking activity or the use of this facility was reported on the CCER filed by Mr. Gegare or the Hoffa Campaign. There is no evidence that any long-distance calls were made.

Jon Rabine, Secretary-Treasurer of Local Union 763, President of Joint Council 28, and a candidate for Western Region International Vice-President, organized a phone bank operation in the Seattle area. According to Mr. Rabine, the majority of the calls were made by volunteers from their homes. However, Mr. Rabine also arranged for the use of facilities of the International Association of Machinists Local 751 ("IAM"). Mr. Rabine states that on the evenings of October 28 and 29, 1996, approximately 15 to 20 volunteers made 400 to 500 calls each night, all within the local area code of the IAM facility.

Linda Lanham, Political Director for the IAM, supervises the use of the union phone bank facility, which has the capacity to handle as many as 30 telephone callers at one time. According to Ms. Lanham, the facility is open to any group, including other local unions. IAM Local 751

permits unions to utilize the phone bank room for any legitimate purpose but maintains a policy against permitting union political groups from making calls in support of any candidate for union office, whether local, national or international. Ms. Lanham also stated that union groups may use the facility free of charge and that previously, the phone bank room has also been made available to supporters of candidates for non-union national and local political office at the rate of $100 for three hours of use.

According to Ms. Lanham, Mr. Rabine represented to her that the facility would be used by volunteers on behalf of the Seattle Area Labor Council to make calls in connection with the national non-union political elections. Ms. Lanham further stated that if Mr. Rabine's real purpose had been disclosed, the IAM would not have permitted the phone-banking activity to take place there.

Neither the Hoffa Campaign, the campaign of Mr. Rabine or the campaigns of any other slate member paid for the use of the Local 751 facility. The phone-banking activity was not reported on the CCER filed by Mr. Rabine or the Hoffa Campaign.

Although not in the form of money, the use of an independent phone-banking facility is a valuable service and an item of value that should have been reported under the *Rules*. The Election Officer has consistently approved the purchase or lease of employer or union telephone facilities for phone-bank campaigning on payment of fair-market value. See, e.g., Merritt, P-1162-IBT-PNJ et seq. (Nov. 12, 1996) (use of telephones in state senator's reelection office); Tiboni, P-1155-JC41-CLE (Nov. 14, 1996) (use of telephones in conference rooms in building ultimately controlled by partners in law firm); Cook, P-337-LU705-CHI et seq. (May 8, 1996) (use of AFSCME telephones for phone bank operation), aff'd, 96 - Elec. App. - 191 (KC) (May 17, 1996);

Carter, P-457-LU550-NYC (1991). However, the *Rules* prohibiting in-kind contributions are violated when such facilities are used by a campaign without the required payment. See, *Advisory on Campaign Contributions and Disclosure ("Advisory")* (December 14, 1995, as revised November 1997). The purchase of goods or services by a candidate constitutes a campaign contribution by the vendor unless the terms of use are commercially reasonable.

There is no evidence that the Hoffa Campaign or any slate member paid for the use of the Green Bay Labor Temple or the IAM facility. Therefore, the Hoffa Campaign and Messrs. Gegare and Rabine improperly accepted an in-kind contribution from these labor organizations in violation of the *Rules* at Article XII, Section 1(b)(1). The failure to report the use of these facilities as an in-kind contribution pursuant to Article XII, Section 2 constitutes an additional *Rules* violation.

The campaign organizations of Fred Gegare and Jon Rabine shall file amended CCERs for all appropriate periods accurately accounting for all phone-banking activities. Within five (5) days of the date of this decision, Mr. Gegare's campaign shall reimburse the Green Bay Labor Temple in the amount of $25. Within five (5) days of the date of this decision, Mr. Rabine shall reimburse the IAM facility $200.

F. Accepting Delivery of Campaign Materials at Local Union Addresses

During the investigation, the Election Officer discovered that the Hoffa Campaign directed APT to ship at least one box (and in some cases several boxes) of campaign material to Hoffa Campaign operatives at their local union addresses. These materials were shipped to Local Unions 926, 362, 75, 123, 20, 880, 414, 147, 70, 182, 8484, 162, 763, 544, 570, 639, and 222. Such shipments violate the *Rules*. McNamara, P-876-LU107-PNJ (Sept. 18, 1996), aff'd, 96 - Elec. App. (KC) (Sept. 30, 1996).

The Hoffa Campaign violated the *Rules* by knowingly designating the various local union halls as a shipping address for campaign materials. The evidence indicates that APT sent these materials to the addresses given to them by the Hoffa Campaign. By ordering APT to ship the campaign materials in this manner, the Hoffa Campaign violated Article XII, Section (1)(b)(3) of the *Rules*. The Hoffa Campaign shall cease and desist from this activity.

G. Allegations Regarding Contributions by Union Officials

After the protest was filed, the protester submitted allegations of solicitation of contributions to the Hoffa Campaign from and by union officials.

1. Alleged Solicitation of OCAW President Robert Wages

The protester alleged that a Hoffa representative had solicited a contribution from an employer, Robert Wages, President of the Oil, Chemical and Atomic Workers International Union ("OCAW"). On July 11, 1997, the protester submitted an affidavit from Mr. Wages that stated, in pertinent part, as follows:

> In February 1995, for some three or four days I attended various meetings at the Mid-Winter Conference of the executive committee of the AFL-CIO. These meetings took place at the Sheraton Hotel, Bal Harbour, Florida.
>
> On one occasion while I was in the lobby at the hotel, I was approached by Sam Lopez. I had known Lopez since 1977 – he has been a consultant in the hotel business. . . . Lopez introduced me to Jimmy Hoffa, Jr. and invited me to sit with them in the lobby bar. At this time I was fully aware that Hoffa was in the midst of an election campaign, challenging the incumbent Teamster President Ron Carey. I sat next to Lopez in the lobby bar and Hoffa was within hearing range and appeared to be listening. Lopez commenced to solicit campaign funds for Hoffa. Lopez said it was "really important you get to know this guy," motioning to Hoffa; "you should support this guy; he will honor your picket lines." I replied, "What's the price of admission?" Lopez said, again motioning to Hoffa "this is the man,"

> and "we need the financial support of the people you do business with and your vendors."

During the investigation, Mr. Wages was interviewed by the FBI about the information in the affidavit. Mr. Wages verified that he met Mr. Hoffa through Mr. Lopez on the one occasion in Bal Harbour, Florida. Mr. Wages stated that during that meeting Mr. Lopez implied that it might be possible to give campaign contributions for Mr. Hoffa, but nothing was said directly. Mr. Wages stated that there were no further attempts by Mr. Hoffa, or any representative, to obtain campaign contributions from him.

The Election Officer finds that the evidence does not support the alleged solicitation of a contribution from Mr. Wages by the Hoffa Campaign. The veiled reference to a possible campaign contribution, assuming it was made by Mr. Lopez, does not amount to a solicitation in violation of the *Rules*.

2. Alleged Solicitation of BMWE President Mac Fleming

During the investigation, the protester contended that Mac Fleming, President of the Brotherhood of Maintenance Way Employees ("BMWE") was solicited for a contribution to the Hoffa Campaign. An October 31, 1997, article by Kevin Galvin of the Associated Press gave the following account:

> Mac Fleming, president of the 45,000-member Brotherhood of Maintenance of Way Employees, said Hoffa called his Detroit office last summer and complained Carey was outspending him.
>
> Told that BMWE members had contributed to Carey, Hoffa said he wanted "the same consideration," Fleming said.
>
> "He said, "What about doing something for me?" Fleming said. "He did inquire about fundraising."

> Hoffa contended Fleming had called him, said he had given $2,500 in cash to Carey and "wanted to level the playing field." Hoffa said he told Fleming to write a check to his legal and accounting fund but never received payment.
>
> Separately, Fleming said a Hoffa protégé who knew about the BMWE's deliberations on merging with a larger union suggested that Fleming could receive a top Teamsters' post if Hoffa were elected.

During the investigation, Mr. Fleming was interviewed under oath. Mr. Fleming stated that he contacted Mr. Hoffa by telephone in the fall of 1996, over concerns he had about Mr. Hoffa's views of the AFL-CIO. Mr. Fleming says that during this conversation, he said to Mr. Hoffa that BMWE members had raised some money for the Carey Campaign. Mr. Fleming stated he does not recall Mr. Hoffa making any request to Mr. Fleming for support of his campaign. When asked whether anyone spoke of "leveling the playing field," Mr. Fleming stated that he (Mr. Fleming) may have used that term but he does not remember how. Mr. Fleming stated that he told Mr. Hoffa that the BMWE membership could assist in Mr. Hoffa's campaign as well. Mr. Fleming's recollections were very vague, but he thinks Mr. Hoffa provided the name of a campaign staff member for individuals to contact if they desired to contribute. Mr. Fleming denied having any discussion with anyone associated with the Hoffa Campaign about the possibility of a merger between the IBT and the BMWE.

When questioned about Mr. Galvin's article, Mr. Fleming stated that he remembered speaking to Mr. Galvin, but did not recall stating to the reporter that Mr. Hoffa asked for "the same consideration" as had been purportedly shown to the Carey Campaign. Upon questioning about Mr. Hoffa's statement in the article that contributions should be directed to the legal and accounting fund, Mr. Fleming responded, "He indicated that we should direct contributions to some entity and

it may have been those but I don't recall exactly." Mr. Fleming denied that the BMWE made any contribution to either the Hoffa Campaign or its legal and accounting fund. Mr. Fleming stated that he did not recall having any conversation with any Hoffa "protégé about a union merger" as stated in the article.

In an interview with Mr. Hoffa, he stated that he received a telephone call from Mr. Fleming. During the conversation, Mr. Fleming told Mr. Hoffa that the BMWE had given over $2,500 to the Carey Campaign in response to a solicitation. Mr. Hoffa related to the Election Officer that he was startled by this information from Mr. Fleming, and responded by telling Mr. Fleming that he could make a contribution to Mr. Hoffa's legal and accounting fund.

The audit did not reveal any contributions by Mr. Fleming or the BMWE to the Hoffa Campaign, and the CCERs show no such contributions. Based upon the interview with Mr. Fleming, which is largely corroborated by Mr. Hoffa, the Election Officer finds there is no support for this allegation.

3. Alleged Contribution of John Matassa

The protester alleges that John Matassa, a local union leader in the Laborer's International Union of North America with reputed mob ties, claimed that he raised money for the Hoffa Campaign.

Mr. Matassa refused to be interviewed by the Election Officer. The FBI, however, spoke with Mr. Matassa's counsel. Counsel stated that Mr. Matassa does not know Mr. Hoffa, has never met Mr. Hoffa and did not make any contributions to the Hoffa Campaign. No evidence was submitted to support the allegation. The Election Officer finds that the allegation is unsubstantiated and that no further investigation is appropriate.

4. Alleged Solicitation of IATSE President Tom Short

The protester alleges that there was a Hoffa fundraiser in Los Angeles, California, hosted by Michael "Hollywood Mike" Riley. Mr. Riley is the Secretary-Treasurer of Local Union 986 in Los Angeles and President of Joint Council 42. Mr. Riley was a strong supporter of Mr. Hoffa and ran on a slate with Mr. Durham in the 1991 election. The allegation is that several labor leaders, including Tom Short, President of the International Association of Theater and Stage Employees ("IATSE"), were solicited for donations by Mr. Riley.[54]

During the investigation, Mark Seay, International Vice President and Financial Secretary of Local Union 755, Operative Plaster Cement Masons International Association (which is associated with IATSE); and Tom Short, IATSE International President, were interviewed by the FBI. Mr. Hoffa was also interviewed regarding this allegation.

Mr. Seay stated that sometime in early 1997, he received a letter soliciting funds for the Hoffa Campaign. The letter was addressed to Mr. Seay as a member of IATSE. Mr. Seay forwarded the letter to Tony Cousimano, Business Agent and Director of Organizing. Mr. Seay was aware of published reports of campaign contribution irregularities surrounding the IBT International officer election and, accordingly, he forwarded the letter because he thought it might be an inappropriate solicitation. Neither Local Union 755 nor Mr. Seay made any contribution and Mr. Seay did not receive any further solicitations.

Mr. Short has been President of IATSE since 1994. Mr. Short stated that he has known Mr. Riley for the past few years and has met him at some "social gatherings." Mr. Short did not recall preparing any memorandum or other invitation which was sent to labor leaders or employers to attend a party involving Mr. Riley. He also did not recall any function being hosted by Mr. Riley.

Mr. Hoffa stated that he does not know Tom Short. Mr. Hoffa stated, however, that Mr. Riley hosted a fundraiser in Southern California for the Hoffa Campaign's legal and accounting fund.

Based upon the investigation, the Election Officer found no evidence that Mr. Short was solicited or gave any improper contribution to the Hoffa Campaign. It appears that Mr. Seay may have been solicited for a contribution, but he does not have the letter and, given the timing, it appears that the solicitation may have been for the legal and accounting fund, which the ***Rules*** permit. Mr. Seay did not give any contribution. Therefore, the Election Officer finds no support for this allegation.

H. Allegation Involving Improper Contributions by United Parcel Service

During the investigation, the Election Officer became aware of an allegation that David Sweeney, the former IBT Director of Legislative and Political Affairs, was hired by United Parcel Service ("UPS") as a lobbyist and was assigned by UPS to work for the Hoffa Campaign.

Through witness interviews, the Election Officer determined that the allegation stemmed from a comment allegedly made by UPS Vice-President for Public Affairs Arnold Wellman that Mr. Sweeney was on the UPS payroll "working our guys." Mr. Wellman directs UPS' Washington legislative office.

Mr. Sweeney was interviewed at length regarding the allegations. Mr. Sweeney worked for the IBT as the legislative and political affairs director from 1971 until 1993. In September 1993, Ron Carey told Mr. Sweeney that he wanted to put "his own person" in the job. Mr. Sweeney was offered a severance arrangement and thereafter, voluntarily retired from the IBT. Mr. Sweeney describes his separation from the IBT as businesslike and not vindictive. Shortly after he left the

IBT, Mr. Sweeney was contacted by Mr. Wellman, who inquired whether Mr. Sweeney would be interested in working on legislative issues for UPS. UPS and the IBT shared similar views on certain legislative issues. With the understanding that Mr. Sweeney would not have to work on labor issues adverse to the interests of the IBT, Mr. Sweeney was retained as a consultant and independent contractor to work on legislative issues for UPS, beginning in 1994. He has been working in this capacity for UPS since that time. He earns a set monthly retainer and a flat expense fee.

The Election Office reviewed Mr. Sweeney's file materials showing the actual work done for UPS. Mr. Sweeney's pay stubs and expense records were also reviewed. His work consists of disseminating informational materials to his contacts in government agencies, and assisting the UPS legislative staff in thinking about current legislative issues and the formulation of legislative strategy for UPS. With a single exception in 1996, Mr. Sweeney does not travel for UPS. Mr. Sweeney has no other paying clients.

Mr. Sweeney emphatically denies doing any work for the Hoffa Campaign. He admits to attending two fundraisers for Mr. Hoffa in the Washington, D.C. area. At these events, he spoke to Mr. Hoffa briefly. He contributed about $90 cash at the door at one of the fundraisers.[55] He has had no other involvement with the Hoffa Campaign or any representative of the Hoffa Campaign. He did not make any public appearances for the campaign nor did he approach any IBT members to seek support for the Hoffa Campaign.

Based upon the investigation, the Election Officer finds that there is no evidence to support the allegations. Accordingly, this portion of the protest is denied.

1. Alleged Contribution to the Hoffa Campaign Through the Purchase of Pass Cases

The Election Officer received an allegation that Local Union 710 paid an inflated price for pass cases purchased from Sanatex, Inc., and that the excess amount over the true cost was used in some way for the benefit of the Hoffa Slate.

In August 1997, an audit of Local Union 710 was conducted by the IBT. The audit document states that the local union's education and publicity expenses increased in 1996 and 1997 because the union purchased a large amount of supplies and paraphernalia (e.g., pens, caps, pins, and jackets). The Election Officer audited Sanatex, the major vendor of paraphernalia to Local Union 710. The audit revealed that after the International election, in January 1997, Local Union 710 purchased 10,175 Teamster pass card cases with a gold imprint on the front for $1.85 per unit, for a total cost of $20,603.95. While this transaction does not appear to be economically reasonable, it occurred after the initial election and the Election Officer found no connection to the 1996 IBT International officer election.

J. Alleged Improper Contributions by Printers

The Election Officer received an allegation that Kelly Press and Delancey Press, both printers based in the Washington, D.C. metropolitan area gave improper donations to the Hoffa Campaign.

Mike and Paul Kelly, the principal officers of Kelly Press and Merle Delancey, Sr., the principal officer of Delancey Press, were interviewed as part of the investigation of this allegation. They firmly denied giving any contributions to the Hoffa Slate Campaigns or to any intermediary for the Hoffa Campaign. Audits of the Hoffa Slate Campaigns found that neither company did any work for the Hoffa Campaigns or any of the Hoffa Slate Campaigns. In addition, no evidence was found showing that either company did any work for any of the IBT entities where the candidates on the Hoffa Slate are officers and employees. Accordingly, the Election Officer finds this allegation not substantiated.

11. Allegations Involving Local Union 710 Fund Transfer

During the investigation, an allegation was received about the possible indirect funneling of Local Union 710 pension fund monies into the Hoffa Campaign. The allegation is as follows: East West Institutional Services, Inc. ("East West"), whose president is Christopher Roach, a

Detroit-area broker who has a collective bargaining agreement with Local Union 337, received approximately $500,000 from Shawmut Investment Advisors ("Shawmut"). The $500,000 represented a split of Shawmut's profit on the sale of bonds that had been owned by the Local Union 710 pension fund. East West also received another $500,000 from Shawmut in other commissions and fees. During 1994 and 1995, East West transferred nearly $1.5 million to a Cayman Island Company. Some of the money transferred to East West was alleged to have ended up in the Hoffa Campaign.

Mr. Roach was not cooperative. He only spoke to the Election Office by phone and angrily denied that he gave any contributions to the Hoffa Campaign and the allegations set forth above. No other witnesses or records were identified to corroborate this allegation. Nothing in the records of the campaign or of Local Union 710 reviewed by the Election Officer support this allegation. Accordingly, the Election Office finds no evidence to substantiate this allegation.

L. Allegations Concerning Paraphernalia Received from the Movie *Hoffa*

The Election Officer received a letter from International Vice-President-at-Large Jim Benson alleging that Mr. Hoffa and the Hoffa Slate accepted paraphernalia with the name "Hoffa" from the production company that made the movie *Hoffa*, equaling "thousands of dollars" and that this paraphernalia was either sold or given away by the Hoffa Campaign.

When Mr. Benson was contacted during the investigation, he stated that he received the information on which he based his letter from Southern Region International Vice-President Aaron Belk. When contacted, Mr. Belk stated that during January 1998 he was speaking with

Lawrence Brennan, President of Local Union 337 about the National Master Freight negotiations. Towards the end of the conversation, Mr. Brennan complained about the activities of the Election Office to Mr. Belk. Mr. Belk stated that Mr. Brennan said that the Election Officer had subpoenaed vendors and had found out "about the Hoffa Campaign getting paraphernalia from the old Hoffa movie from the production company." Mr. Belk had no information that the Hoffa Campaign had actually received such paraphernalia.

Although no evidence was presented to substantiate this allegation, the Election Officer contacted the film production company. An attorney for the production company stated that production companies routinely give away, but do not sell, hats, t-shirts, jackets, mugs, and other paraphernalia bearing the name of the film to the union crew as a token of thanks and that IBT members routinely work on films.

The Election Officer found no evidence to substantiate Mr. Benson's allegations, which were based on a casual conversation about the actions of the Election Office. The only information obtained confirmed that the production company may have given away materials from the movie to some IBT members who worked on the film.

VII. The Violations Found Do Not Merit Disqualification of Mr. Hoffa or Members of the Hoffa Slate

The *Rules* provide that, upon determining a violation or the occurrence of any other conduct "which may prevent or has prevented a fair, honest, open and informed election," the Election Officer may take appropriate remedial action. *Rules*, Art. XIV, Sec. 4. The provision reflects the Election Officer's wide discretion to fashion remedies as necessary to promote and protect the integrity of the election process. The enumerated remedies include, without limitation,

"removing any nominee from the ballot" (id. Sec. 4(a)) and "disqualifying any member from seeking any. . . International Officer position." Id. Sec. 4(c).

The central allegations of the Carey Slate Protest concern the Hoffa Slate's acceptance of improper contributions and a related failure to report truthfully the contributions received. See Section III, above; *Rules*, Art. XII. The investigation established that improper contributions were received by the Hoffa Slate, most notably in the form of valuable services donated by Mr. Leebove. See Section VI(C), above. The investigation did not find evidence of any other improper contributions above de minimis level. The other significant *Rules* violations found concern the failure to report and disclose otherwise proper contributions. See Section VI(A), above. The Election Officer has already set forth the appropriate remedy for each violation, considered separately, as part of the analysis.[56]

Under the *Rules*, the standard for granting a remedy in the case of an ordinary post-election protest is whether a substantiated violation "may have affected the outcome of the election." *Rules* Art. XIV, Sec. 3(b); see 29 U.S.C. Sec. 481 (Labor Management Reporting and Disclosure Act, "LMRDA"). In the usual circumstance, that means that the supervising authority will only consider violations involving the electoral victor, and will only take the serious step of nullifying the ballot box results if the violation may have affected the outcome of the election. In the normal post-election environment, the supervising authority does not consider violations committed by losing candidates.

The Election Appeals Master's ruling requires the Election Officer to depart from that usual course and to analyze these violations as if in a pre-election context. Thus, the ruling directs the Election Officer to consider whether the violations found implicate the "integrity, credibility

and fairness of the rerun election." In re Carey Slate, 97 - Elec. App. - 322 at 7 (KC) (November 17, 1997). In the pre-election context, the remedial scope of the Election Officer is not limited by the violation's possible effect on the election. Instead, the Election Officer is empowered to "determine the appropriate remedy," *Rules*, Art. XIV, Sec. 2(f)(1), to ensure a "fair, honest, open and informed election[ ]." Id., Art. I. Considering allegations of financial misconduct, the Election Appeals Master observed that *Rules* violations, "if of sufficient seriousness, could warrant disqualification of a candidate." In re Carey Slate, at 7. Indeed, he applied that drastic remedy when he disqualified Ron Carey from participating in the rerun election. In re Cheatem, Post-27-EOH (KC) (November 17, 1997) ("Cheatem").

Here, the issue presented is whether the violations found in this decision are of sufficient seriousness that they require an overarching remedy more stringent than those already imposed for the violations considered separately. The ultimate issue is whether the violations established, considered as a whole, leave the Election Officer with no choice but to disqualify Mr. Hoffa and/or members of the Hoffa Slate from the rerun election. Considering the violations in their totality, and the disqualification standard articulated in Cheatem, the Election Officer concludes that the remedies imposed for the several violations are sufficient to uphold the objectives of the Consent Decree. The Election Officer therefore concludes that no member of the Hoffa Slate who is otherwise currently eligible to stand for election will be disqualified on account of the violations found in this ruling.[57]

Kenneth Conboy, designated as the Election Officer "'for the sole purpose of investigating and deciding the issue of disqualification of Ronald Carey from the rerun election,'" Cheatem at 2, comprehensively reviewed the law concerning appropriate remedies for misconduct in labor union

elections. See Cheatem at 60-64. The Election Officer held that, while traditional labor law may limit the scope of remedies for union election violations, the union democracy imperatives embedded in the Consent Decree confer discretion on the Election Officer to impose any remedy necessary to eradicate completely the effect of a *Rules* violation. Id. at 48-52. The *Rules* took full advantage of the Election Officer's Consent Decree powers by enumerating candidate disqualification as an available remedy. *Rules* Art. XIV, Sec. 4(a) and Sec. 4(c).

Although the Election Officer has broad discretion, Cheatem properly recognized disqualification as an extraordinary "anti-democratic remedy" to be used as a last resort when the integrity of the electoral process could not be vindicated by lesser measures. Id. at 53-54. The use of the Consent Decree's remedial authority to disqualify a candidate yields a "paradoxical" situation in which the electorate's voting options are limited in order to promote democratic governance of the IBT.[58] See id. at 64. Even a situation that justifies disqualification of a candidate for misconduct may vindicate anti-corruption objectives "to the evident impoverishment of the democratic process." Id. at 66. Thus, both the unique facts underlying a substantiated *Rules* violation, and the particular context of the violation, are critical to the prudent exercise of the Election Officer's remedial discretion.

Particular care must be taken in fashioning extraordinary remedies for *Rules* violations that arise as a matter of strict liability. For example, the *Rules* contain the following provision concerning contributions:

> Candidates are strictly liable to insure that each contribution received is permitted under the *Rules*. Prohibited contributions must be returned promptly. Within three (3) days of the return of any contribution, the candidate or candidate's campaign returning the contribution shall provide to the Election Officer an affidavit identifying the original source and date of the contribution being

> returned, the amount of the returned contribution, the person to whom or entity to which the contribution was returned and the date on which the contribution was returned.

Rules Art. XII, Sec. 1(b)(9). This provision defines the liability standard together with the appropriate, basic remedy of returning any improper contributions. Ordinarily, the return of funds received from an improper source constitutes a sufficient remedy for that rules violation. That is not, however, the sole and exclusive remedy available to the Election Officer for such a violation. While other remedial measures may be appropriate for a violation arising from "a candidate's or campaign's receipt or use of improper contributions," that type of tailoring requires, inter alia, particular consideration of "the manner in which the contribution was solicited . . . ."[59] *Rules* Art. XII, Sec. 1(d).

The Election Officer's ruling concerning Mr. Carey may have been based, in strict terms, on a violation of the *Rules* prohibition against the solicitation, receipt, and use of money from certain sources to fund campaigning for IBT International officer. Cheatem at 1, 60. The disqualification remedy, however, was not imposed as a matter of strict liability. Rather, the Election Officer used this powerful remedy because the facts in the investigation showed that Mr. Carey participated intentionally in a hidden, corrupt scheme for his personal benefit that also breached his fiduciary duty to the IBT membership:

> [I]t is now apparent that Mr. Carey, the incumbent General President of the IBT, tolerated and engaged in extensive Rules violations in broad furtherance of his reelection campaign. Specifically, Mr. Carey misused his union power in the court of the election by authorizing the expenditure of $735,000 in IBT general treasury fund to help his flagging campaign. By authorizing the use of Union funds for his personal interest, Mr. Carey engaged in self-dealing and breach of trust of the rank and file of his Union.

Cheatem, at 69 (emphasis added). "This breach of fiduciary duty, self-dealing at the expense of the IBT membership," wrote the Election Officer, "constitutes one of the core types of misconduct the Consent Decree was designed to eliminate." Id. at 71 (emphasis added). All of these elements made out an egregious offense that justified imposition of the strongest possible remedial measure.

The violations found in the Carey Slate Protest investigation do not warrant candidate disqualification. Personal knowledge, intentional misconduct, and abuse of official authority are the hallmarks of the disqualification remedy in Cheatem. The evidence does not show such participation by any members of the Hoffa Slate candidates in the violations found here. The failure to disclose certain contributions of more than $100 did not hide prohibited contributions from the IBT electorate. Indeed, these contributions came from lawful sources. The amount of contributions not itemized was included in the total value of contributions reported by the Hoffa Slate Campaigns, so the IBT electorate had accurate information on the gross sums raised and spent by the candidates. A failure to identify otherwise proper contributors of disclosed sums does not undermine the Consent Decree's objective of promoting democratic participation in the affairs of the IBT. Even Mr. Hoffa's intentional concealment of an otherwise proper $1,000 contribution does not rise to this level. This did not involve the concealed misuse of funds diverted by Mr. Hoffa in violation of a fiduciary duty. The amount involved is de minimis in the scale of $3.6 million in total contributions. These reporting violations can be remedied, and any adverse consequences ameliorated in advance of the rerun election, by having the Hoffa Slate Campaigns make full disclosure of the source of these contributions and by imposing the remedial fines.

The improper contribution of Mr. Leebove and RL to the Hoffa Campaign, while a very serious violation, does not warrant disqualification of Mr. Hoffa. Mr. Leebove's activity was not secret during the campaign. The violation arose based on Mr. Leebove's billings, not from concealed matters. The Election Office found this violation by collating evidence of the extent of Mr. Leebove's work from many sources and determining that he did not charge reasonably for his services and costs. That evidence does not show Mr. Hoffa's personal knowledge and participation in a scheme set up with the intent to support his campaign with a significant amount money from an employer. There was no six figure check, or envelope of cash that the Hoffa Slate obtained from an improper source, the very existence and acceptance of which would reflect wrongdoing. While Mr. Hoffa surely knew that Mr. Leebove was working for his campaign (as did anyone who observed the campaign) and knew that Mr. Leebove's services had value, the scale of Mr. Leebove's improper contribution can be appreciated fully only with the available, cumulative evidence of the work in hand. There was no effort by Mr. Hoffa to "wilfully flout the *Rules*" or engage in "self-dealing"with fiduciary funds.

In addition, the improper conduct identified in the violation is personal to Mr. Leebove. There is no evidence that the campaign's use of Mr. Leebove somehow involved an abuse of Mr. Hoffa's union position, or constituted a breach of trust committed in Mr. Hoffa's official capacity. Indeed, Mr. Hoffa took a leave of absence from his position at Joint Council 43 during the height of the campaign.

Because Mr. Leebove's conduct is the focus of the violation, it is appropriate that the remedy focus on his participation in the rerun election. The Hoffa Slate will feel the effect of the

sanction because it will not be able to use Mr. Leebove's services, but Mr. Leebove, as the actor with principal responsibility of the violation, must be the principal subject of the remedy.

In sum, the Election Officer concludes that the remedy of disqualification is not appropriate in this protest.

Accordingly, the protest is GRANTED in part and DENIED in part.

10. Summary of Remedies

The remedies for each violation found by the Election Officer are set forth in the appropriate sections of this decision. The following is a summary of the remedies imposed.

1) The Hoffa Campaign

a) For violating the reporting requirements by failing to itemize $13,570 in contributions on the CCERs, Hoffa '96 is directed to file a supplemental CCER for the initial election itemizing and disclosing all contributions that should have been previously disclosed. The Hoffa Campaign is fined $1,357, ten percent of the sum improperly reported. The fine is ordered to be remitted to the Election Office within five (5) days of this decision.

b) For violating the reporting requirements by failing to itemize $43,868.80 in contributions on the CCERs, Hoffa Support Team is directed to file a supplemental CCER itemizing and disclosing all contributions that should have been previously disclosed. The Hoffa Campaign is fined $5,286. The fine is ordered to be remitted to the Election Office within five (5) days of this decision.

c) For violating the reporting requirements by filing fraudulent CCER's with the Election Office, the Hoffa Campaign shall pay $7,500 to the Election Office. This amount reflects the Hoffa Campaign's portion of the $20,184.75 salary of Kevin Currie falsely-reported to the Election Office. The sum is ordered to be remitted to the Election Office within five (5) days of this decision.

d) For violating the prohibition on employer contributions by improperly accepting at least $167,675 worth of donated services from Richard Leebove, Phil Turner and RL Communications, the Hoffa Campaign is fined $16,767, ten percent of the estimated value of Mr.

Leebove's improper contribution. The sum is ordered to be remitted to the Election Office within five (5) days of this decision.

e) For violating the prohibition on the contribution of union-resources by knowingly using local union halls as a shipping address for campaign materials, the Hoffa Campaign is ordered to cease and desist from such activity.

2) The Santangelo Campaign

For violating the reporting requirements by failing to properly report $2,637 in contributions, the Santangelo Campaign is fined $263, ten percent of the improperly reported sum. The fine is ordered to be remitted to the Election Office within five (5) days of this decision.

3) The O'Donnell Campaign

For violating the reporting requirements by filing fraudulent CCERs with the Election Office, the O'Donnell Campaign shall pay $12,684.75 to the Election Office. This amount reflects the O'Donnell Campaign's portion of the $20,184.75 salary of Kevin Currie which was falsely-reported to the Election Office. The sum is ordered to be remitted to the Election Office within five (5) days of this decision.

4) The Gegare Campaign

For violating the prohibition on employer contributions by improperly accepting an in-kind contribution from labor organizations, the campaign organization of Fred Gegare shall file amended CCERs for all appropriate periods accurately accounting for all phone-banking activities. Within five (5) days of this decision, Gegare's Campaign shall reimburse the Green Bay Labor Temple in the amount of $25. A copy of the check shall be simultaneously sent to the Election Officer.

5) The Rabine Campaign

For violating the prohibition on employer contributions by improperly accepting an in-kind contribution from labor organizations, the campaign organization Jon Rabine shall file amended CCERs for all appropriate periods accurately accounting for all phone-banking activities. Within five (5) days of this decision, Mr. Rabine shall reimburse the IAM facility in the amount of $200. A copy of the check shall be simultaneously sent to the Election Officer.

6) Richard Leebove, Phil Turner, and RL Communications

For violating the prohibition on employer contributions by improperly contributing at least $167,625 to the Hoffa Campaign and for knowingly making false statements to the Election Officer, the Election Officer orders the following:

a) All candidates, slates, and independent committees are hereby barred from contracting with Mr. Leebove, Mr. Turner or RL Communications, or paying any of them for any kind of services, goods, or work of any kind for the duration of the 1996 International officer election;

b) Mr. Leebove, Mr. Turner and RL Communications may not perform any work for or against any candidate nor may they bill or receive monies or incur a debt for election-related work for the duration of the International officer election.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within one day of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing and shall be served on:

Kenneth Conboy, Esq.
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax: (212) 751-4864

Copies of the request for a hearing must be served on the parties listed above as well as upon the Election Officer, 444 North Capitol Street NW, Suite 445, Washington, DC 20001, Facsimile (202) 624-3525. A copy of the protest must accompany the request for a hearing.

Sincerely,

Michael G. Cherkasky
Election Officer

MGC:chh

cc: Kenneth Conboy, Election Appeals Master
Regional Coordinators

EXHIBIT A

Summary of Investigative Activity

This a partial summary of the investigative activity. Names of individual IBT members interviewed and certain third-party information sources have not been included here in order to protect their privacy, or their confidential status as sources of information for the Election Officer.

The following Teamster local unions and joint councils were audited by representatives of the Election Office:

Local 20	Toledo, OH	Lester Singer, President
Local 70	Oakland, CA	Chuck Mack, Secretary-Treasurer
Local 41	Kansas City, MO	Phil Young, President
Local 337	Detroit, MI	Lawrence Brennan, President
Local 372	Detroit, MI	Alfred Derey, Secretary-Treasurer
Local 507	Cleveland, OH	Terri Freeman, Secretary-Treasurer
Local 550	New Hyde Park, NY	Richard Volpe, Secretary-Treasurer
Local 614	Bloomfield Hills, MI	Michael Bane, President
Local 710	Chicago, IL	Frank Wsol, Secretary-Treasurer
Local 743	Chicago, IL	Chester Glanton, President
Local 745	Dallas, TX	Sam Carter, Trustee
Local 817	Lake Success, NY	Thomas O'Donnell, President
Local 986	Los Angeles, CA	Michael Riley, Secretary-Treasurer
Joint Council 43	Detroit, MI	Lawrence Brennan, President

Representatives of the Election Office also audited 14 Hoffa Slate Campaigns and candidate committees. The audits included an examination of the campaign CCER's, a review of available financial records kept by the campaigns (e.g., receipts and disbursement journals, copies of contribution checks, bank statements and vendor invoices), corroborative financial records subpoenaed from financial institutions and related banks, and hundreds of interviews with candidates, campaign staff, and individual Teamster members, both in person and by phone. The following campaigns were audited:

<u>California</u>

Chuck Mack, candidate for Western Region International Vice-President.

Mary-Lou Salmeron, candidate for International Trustee.

Jim Santangelo, candidate for Western Region International Vice-President.

Illinois
Patrick Flynn, candidate for Central Region International Vice-President.
Chester Glanton, candidate for International Vice-President-At-Large.
William T. Hogan, candidate for General Secretary-Treasurer.
Frank Wsol, candidate for Central Region International Vice-President.

Michigan
Hoffa '96, supporting James Hoffa as candidate for General President.
Hoffa Support Team, supporting James Hoffa as candidate for General President.

Missouri
Phil Young, candidate for Central Region International Vice-President.

New York
Thomas O'Donnell, candidate for International Vice-President-At-Large.
Richard Volpe, candidate for Eastern Region International Vice-President.

Ohio
Lester Singer, candidate for Central Region International Vice-President.

Texas
T.C. Stone, candidate for Southern Region International Vice-President.

Certain financial records from the following campaigns were obtained and reviewed by the Election Officer:

British Columbia, Canada
Garnet Zimmerman, candidate for Teamsters Canada International Vice-President.

Pennsylvania
Betty Rose Fischer, candidate for Eastern Region International Vice-President.

Tennessee
Randall Copeland, candidate for Southern Region International Vice-President.

Washington
Jon Rabine, candidate for Western Region International Vice-President.

For investigation of the allegations of illegal phone banking activities, additional records from the following local unions were obtained and reviewed:

Local 123	Bismarck, ND
Local 147	Des Moines, IA
Local 215	Evansville, IN
Local 222	Salt Lake City, UT
Local 364	South Bend, IL
Local 414	Fort Wayne, IN
Local 544	Minneapolis, MN
Local 745	Dallas, TX
Local 848	El Monte, CA

A number of third-party vendors were contacted and interviewed. Certain financial records relating to the vendors involvement with the Hoffa Campaign and Hoffa Slate Campaigns were reviewed. The following vendors were examined:

Barker Specialty	Cheshire, CT
Claramount Printing	Detroit, MI
Event Management	Clearwater, FL
J & D Custom Printing	Berwyn, IL
RL Communications	Southfield, MI
Remke Printing	Wheeling, IL
S & K Specialty Products	Mapleton, IL
Sanatex, Inc.	Chicago, IL

In addition, representatives of the Election Office conducted sworn statements, depositions or interviews with the following candidates:

Patrick Flynn, candidate for Western Region International Vice-President.
Fred Gegare, candidate for International Vice-President-At-Large.
James P. Hoffa, candidate for General President.
William T. Hogan, candidate for General Secretary-Treasurer.
Thomas O'Donnell, candidate for International Vice-President-At-Large.

Jon Rabine, candidate for Western Region International Vice-President.
Mary-Lou Salmeron, candidate for International Trustee.
Richard Volpe, candidate for Eastern Region International Vice-President.
Frank Wsol, candidate for Central Region International Vice-President.

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